



# **Extraordinary Meeting of Council**

**12 January 2022**

**UNDER SEPARATE COVER  
ATTACHMENTS**

**QUEANBEYAN-PALERANG REGIONAL COUNCIL  
EXTRAORDINARY MEETING OF COUNCIL**

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# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.4                      DELEGATIONS TO THE MAYOR AND DEPUTY MAYOR

ATTACHMENT 1      MAYORAL INSTRUMENT OF DELEGATIONS



## **QUEANBEYAN-PALERANG REGIONAL COUNCIL DELEGATIONS TO THE MAYOR**

### **INTERPRETATION OF DELEGATIONS**

1. This instrument of delegation should be construed as operating in a manner which is valid and within the powers conferred on the Council under the Local Government Act 1993.
2. References to the Chief Executive Officer are references to the general manager appointed under the Local Government Act 1993.
3. References to the decisions of Council are references to decisions made by Council from time to time.
4. References to policies of the Council are references to policies adopted by Council from time to time.
5. These delegations are not intended to limit the Mayor's ability to carry out such other functions and exercise such other powers as the Council may determine from time to time or as may be functions of the Mayor under the Local Government Act 1993.

### **DELEGATIONS**

Subject to the powers, authorities, duties and functions of Council:

1. Reserved to the Council by Section 377 and Section 379 of the Local Government Act 1993;
2. Which are required by any legislation or instrument to be performed by the Council;
3. Delegated to the Chief Executive Officer by Council resolution from time to time;

Council delegates to the Mayor, on an ongoing basis, the following powers, authorities, duties and functions which are to be exercised in a manner consistent with Council's policies and decisions as applicable from time to time:

#### **General and Policy Direction**

1. To direct the Chief Executive Officer;

#### **Management of Council meetings and business**

2. the authority to call and schedule meetings of Council Committees, briefings of Councillors and inspections by Councillors;
3. to request the Chief Executive Officer, include items on the agendas for all meetings of Council and Council Committees, provided that if the Council has by resolution determined that a specific item should be placed on its agenda, the function exercised under this delegation must be exercised in accordance with that resolution;



4. and any other chairperson, for the purposes of:
  - a) subsection 10(2) of the Local Government Act 1993; and
  - b) clause 258(b) of the Local Government (General) Regulation 2005, the power to expel a person or persons from the following meetings:
  - c) a Council meeting; and
  - d) a meeting of a Council Committee of which all members are Councillors;

#### Expenditure

5. With the prior consultation of the Chief Executive Officer, approve all expenditure from contingency funds, other than the Chief Executive Officer's contingency fund, provided it is within the terms of the budget adopted by Council;
6. to approve:
  - a) all reasonable international travel by staff for Council related business; and
  - b) all reasonable associated expenses with any such travel, noting that any such approved expenses are to be reported in the annual report and the quarterly performance reports to Council;

#### External relations and representations

7. To approve all media statements and publications issued on behalf of Council, unless Council determines otherwise on a specific issue;
8. To determine who should represent Council on external organisations and committees and inter-agency working parties, provided that where a staff member is proposed to represent Council, the Mayor must first consult with the Chief Executive Officer;
9. to determine who should represent Council at civic, ceremonial and social functions where:
  - a. the Mayor is unable to attend; and
  - b. Council has not determined its representative;
  - c. provided that where a staff member is proposed to represent Council, the Mayor must first consult with the Chief Executive Officer;
10. to determine who Civic awards and honours such as keys to the city should be presented;

#### Performance Management of Chief Executive Officer

11. To negotiate and settle terms of a contract of employment with the Chief Executive Officer (CEO Contract) including determining the appropriate remunerations and inform Councillors accordingly;



12. In consultation with the Councillors in respect of material variations, to vary the terms and conditions of the CEO Contract;
13. To administer the CEO Contract including, but not limited to, approving annual leave and settling performance standards;
14. To extend the term of the CEO Contract for a period of up to three months, provided the CEO Contract allows for this extension;
15. To accept the resignation of the Chief Executive Officer;
16. To suspend the Chief Executive Officer at short notice and, only in accordance with a resolution of Council, terminate the Chief Executive Officer's employment;
17. To negotiate and settle termination arrangements with the Chief Executive Officer in accordance with the CEO contract;
18. To appoint a Portfolio General Manager (L2) to act as Chief Executive Officer from time to time, due to the absence of the Chief Executive Officer for any reason, other than the taking of annual leave, such appointment is to be considered by Council at the earliest opportunity;

#### Organisational Accountability

19. To review, approve and implement governance and accountability structures and processes for the performance of the organisation;
20. To oversee, through the Chief Executive Officer, the performance of the organisation and program areas within the organisation;
21. To direct Council's auditor to carry out a review or audit of the organisation;
22. To obtain direct and independent advice relevant to Council functions, all such cases to be reported to Council;
23. To make minor changes to the structure of the organisation;

#### Authority to Obtain Legal Services

24. to instruct Council's legal representatives, directly or through the Chief Executive Officer or General Counsel, noting that if the instructions are not consistent with Council policies or decisions (such as to settle court proceedings where Council's prospects are poor) the Mayor has been advised by the General Counsel or the Chief Executive Officer or external counsel that it is in Council's interest to do so;



25. to instruct Council's legal representatives to commence legal proceedings, including an appeal:

- a) in consultation with the Chief Executive Officer and the General Counsel; or
- b) in consultation with at least two Councillors if the legal proceedings involve the Chief Executive Officer or the General Counsel, noting that any such instructions given are to be reported to Council at the first meeting to occur after the instructions are given;

### Mayoral and Civic Role

26. in consultation with the Chief Executive Officer, and in accordance with relevant policies and procedures, in respect of the Office of the Mayor:

- a) determine the structure of the Unit;
- b) allocate expenditure within the Unit, not exceeding the global budget of the Unit approved annually by Council;
- c) determine the number and description of all staff positions;
- d) be fully and formally consulted in respect of the appointment and dismissal of all staff;
- e) direct staff within the Unit and allocate tasks;

### General authority of Council during recesses

27. to exercise the powers, authorities, duties and functions of Council during the period:

- a) commencing at midnight on the day of the Council meeting held immediately before a recess period as approved by Council; and
- b) ending at the time of commencement of the first Committee meeting held immediately after the end of a recess period as approved by Council, provided:
- c) reports or other business papers in a form similar to those normally submitted to Council or a Council Committee are provided to the Mayor and Councillors at least three business days prior to the Mayor exercising any powers, authorities, duties and functions of Council under this delegation;

### and

- d) the Mayor does not receive written objections by three or more Councillors on an item stating relevant reasons as to why the Mayor should not exercise any powers, authorities, duties and functions of Council in relation to that item, under this delegation; and
- e) any powers, authorities, duties and functions of Council exercised by the Mayor pursuant to this delegation are to be reported to Councillors on a monthly basis.

Resolved on Appointment of the Mayor [DATE] under Council Resolution \_\_\_\_\_

# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.5                      DELEGATIONS TO THE CHIEF EXECUTIVE OFFICER AND  
OTHERS

ATTACHMENT 1      DELEGATIONS TO THE CHIEF EXECUTIVE OFFICER



## QUEANBEYAN-PALERANG REGIONAL COUNCIL

### INSTRUMENT OF DELEGATION TO CHIEF EXECUTIVE OFFICER/GENERAL MANAGER

On **DATE** the Queanbeyan-Palerang Regional Council ("**Council**") resolved that:

1. All previous delegations of Functions the subject of this Instrument be revoked.
2. The person who from time to time holds the position of Chief Executive Officer/General Manager of Council ("**General Manager**"), being at the date of this instrument Peter Tegart, be delegated authority under section 377 of the LG Act, to exercise and/or perform on behalf of Council the Council's Functions under all Legislation in force and as amended from time to time:
  - 2.a **Subject to** any condition or limitation on a Function specified in Schedule 1;  
and
  - 2.b **Excluding** those Functions:
    - i. that are expressly prohibited from delegation as listed under Section 377 of the LG Act;
    - ii. which are expressly required by legislation to be exercised by a resolution of the Council.
3. The Chief Executive Officer/General Manager be sub-delegated authority to exercise and/or perform on behalf of Council the Functions delegated to the Council under, and in accordance with, the instrument of delegation to the Council set out in **Schedule 2, excluding** those Functions which pursuant to the terms of the delegation to the Council may not be sub-delegated.
4. The Chief Executive Officer/General Manager be conferred authority to carry out the Policy Authorities listed in **Schedule 3** and undertake any administrative actions necessary to carry out those Policy Authorities.
5. The Chief Executive Officer/General Manager be delegated any Function which is taken to be conferred or imposed on the Council pursuant to section 381(1) of the LG Act.



6. In the absence of the Chief Executive Officer/General Manager that a person appointed by resolution to act as Chief Executive Officer/General Manager assume all Functions, delegations, and sub-delegations of the Chief Executive Officer/General Manager for the period only of the absence of the Chief Executive Officer/General Manager unless otherwise resolved by the Council.
7. These delegations and authorities are subject to, and are to be exercised in accordance with:
- a.a the requirements of the relevant Legislation;
  - a.b any conditions or limitations set out in **Schedule 1** and **Schedule 3**; and
  - a.c any resolution or policy, procedure or budget adopted from time to time by the Council.
8. These delegations and authorities are effective from the date of the Resolution of the Council and remain in force until amended or revoked by a resolution of the Council.
9. In this delegation:
- **“Functions”** means powers, authorities, duties and functions and anything ancillary or related to the exercise or performance thereof.
  - **“Legislation”** means legislation enacted by the parliament of New South Wales and the parliament of the Commonwealth of Australia, including an Act, regulation made under an Act, by-law, rule or ordinance.
  - **“LG Act”** means the *Local Government Act 1993* as amended.

## Schedule 1: Limitations

Part A – Limitations applicable to specific statutory Function (if any)	
Legislation	Limitation (if any)
N/A	N/A
Part B – General Limitations	
N/A	





## Schedule 2: Instruments of Delegation to Council

Delegator	Instrument Name	Date Of Instrument
N/A	N/A	N/A

## Schedule 3: Policy Authorities

Code	Policy Authority	Conditions / Limitations (if any)
Mayor	<p>1) Authority to determine applications for leave by the Chief Executive Officer/General Manager.</p> <p>2) Authority to respond to media publicity on Council matters and to issue media releases and make statements to the media on behalf of Council.</p> <p>3) Authority to present Certificates of Australian Citizenship after applicants have pledged the Oath or Affirmation of Allegiance, as provided by the <i>Australian Citizenship Act 2007</i>.</p> <p>4) Authority to authorise urgent or emergency works in conjunction with the Chief Executive Officer/General Manager up to an amount of \$20,000.00.</p> <p>5) To authorise, in conjunction with the Chief Executive Officer/General Manager, the payment of travelling expenses where such function is outside the ACT-Queanbeyan area and was considered to be on the business of Council, in accordance with Council's Policy for the payment</p>	N/A



	<p>of expenses and provision of facilities to Mayor and Councillors.</p> <p>8) To sign and seal documents, in conjunction with the Chief Executive Officer/General Manager, covering matters approved by Council.</p> <p>9) To make media statements and issue press releases in respect of Council's resolutions and decisions and to respond to other media matters as appropriate; and</p> <p>10) To sign outgoing correspondence in relation to the office of Mayor, however, those matters relating to the day-to-day management of the Council are matters that remain with the Chief Executive Officer/General Manager to sign.</p>	
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Pursuant to a Resolution of the Council at its meeting of **DATE:**

\_\_\_\_\_  
**Mayor....**

Mayor / Councillor

Date:

### **Chief Executive Officer/General Manager's acknowledgement of Delegations of Authority**

I, Peter Tegart, currently employed by the Council in the position of Chief Executive Officer/General Manager, do hereby acknowledge that I have read and understood this Instrument of Delegation and that I will perform these delegations and authorities in accordance with this Instrument of Delegation and my position description.

\_\_\_\_\_  
Chief Executive Officer/General Manager of Queanbeyan-Palerang Regional Council

Date:

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# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.7 CODE OF MEETING PRACTICE

ATTACHMENT 1 DRAFT QPRC CODE OF MEETING PRACTICE 2022



***D R A F T***

# **Code of Meeting Practice 2022**

<b>Date policy was adopted:</b>		<b>CEO signature and date</b>
<b>Resolution number:</b>		
<b>Next Policy review date:</b>		
<b>Reference number:</b>	52.5.4	
<b>Strategic Pillar:</b>	Capability/Council	
<b>Responsible Branch:</b>	Governance	

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## Code of Meeting Practice 2022

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### Explanatory Note:

QPRC's Code of Meeting Practice is based upon the NSW Government's *Model Code of Meeting Practice 2021* on which all councils are required to base their meeting codes. The Model Code contains '**Mandatory**' provisions which must be included in the QPRC Code.

Council has retained the same clause numbering as set out in the NSW Model Code. However, because the Model Code contains clauses relating only to Joint Organisations and County Councils and has several optional clauses, these clauses have been removed from QPRC's Code of Meeting Practice. Set out below is a list of the clauses which have been deleted from QPRC's Code.

Deleted clauses which do not appear in QPRC's Code of Meeting Practice 2022 are:

- 3.2
- 4.15
- 4.16
- 5.3
- 8.1
- 10.31
- 11.4
- 11.6 – 11.9
- 11.13
- 15.14
- 20.17



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## Code of Meeting Practice 2022

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## Code of Meeting Practice 2022

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### 1 INTRODUCTION

- 1.1 Queanbeyan-Palerang Regional Council's Code of Meeting Practice is based upon the Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) which is prescribed under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2021* (the Regulation).
- 1.2 The Model Meeting Code applies to all meetings of councils and committees of councils of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.
- 1.3 Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code.
- 1.4 A council's adopted code of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, a code of meeting practice adopted by a council must not contain provisions that are inconsistent with the mandatory provisions of this Model Meeting Code.
- 1.5 A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by the council.

### 2 MEETING PRINCIPLES

- 2.1 Council and committee meetings should be:
- Transparent:* Decisions are made in a way that is open and accountable.
- Informed:* Decisions are made based on relevant, quality information.
- Inclusive:* Decisions respect the diverse needs and interests of the local community.
- Principled:* Decisions are informed by the principles prescribed under Chapter 3 of the Act.
- Trusted:* The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.
- Respectful:* Councillors, staff and meeting attendees treat each other with respect.
- Effective:* Meetings are well organised, effectively run and skilfully chaired.
- Orderly:* Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

### 3 BEFORE THE MEETING

#### Timing of ordinary council meetings

- 3.1 Ordinary meetings of the council will be held on the following occasions:
- The fourth Wednesday of each month, except for December, as per the time and location



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## Code of Meeting Practice 2022

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set out in the Meeting Calendar on QPRC's website.

### Extraordinary meetings

- 3.3 If the mayor receives a request in writing, signed by at least two (2) councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable, but in any event, no more than fourteen (14) days after receipt of the request. The mayor can be one of the two councillors requesting the meeting.

**Note: Clause 3.3 reflects section 366 of the Act.**

### Notice to the public of council meetings

- 3.4 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting of committees of the council.

**Note: Clause 3.4 reflects section 9(1) of the Act.**

- 3.5 For the purposes of clause 3.4, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.

- 3.6 For the purposes of clause 3.4, notice of more than one (1) meeting may be given in the same notice.

### Notice to councillors of ordinary council meetings

- 3.7 The Council's Chief Executive Officer (CEO) must send to each councillor, at least three (3) days before each meeting of the council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.

**Note: Clause 3.7 reflects section 367(1) of the Act.**

- 3.8 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form.

**Note: Clause 3.8 reflects section 367(3) of the Act.**

### Notice to councillors of extraordinary meetings

- 3.9 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency.

**Note: Clause 3.9 reflects section 367(2) of the Act.**

### Giving notice of business to be considered at council meetings

- 3.10 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted by noon of Wednesday one week prior to the meeting being held.



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## Code of Meeting Practice 2022

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- 3.11 A councillor may, in writing to the CEO, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.
- 3.12 If the CEO considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the CEO may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.
- 3.13 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted delivery program and operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the CEO must prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council.

### Questions with notice

- 3.14 A councillor may, by way of a notice submitted under clause 3.10, ask a question for response by the CEO about the performance or operations of the council.
- 3.15 A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the CEO or a member of staff of the council, or a question that implies wrongdoing by the CEO or a member of staff of the council.
- 3.16 The CEO or their nominee may respond to a question with notice submitted under clause 3.14 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

### Agenda and business papers for ordinary meetings

- 3.17 The CEO must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 3.18 The CEO must ensure that the agenda for an ordinary meeting of the council states:
- (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
  - (b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
  - (d) any business of which due notice has been given under clause 3.10.
- 3.19 Nothing in clause 3.18 limits the powers of the mayor to put a mayoral minute to a meeting under clause 9.6.
- 3.20 The CEO must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the CEO, the business is, or the implementation of the business would be, unlawful. The CEO must report, without giving details of the item of business, any such exclusion to the next meeting of the council.



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## Code of Meeting Practice 2022

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- 3.21 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the CEO, is likely to take place when the meeting is closed to the public, the CEO must ensure that the agenda of the meeting:
- (a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
  - (b) states the grounds under section 10A(2) of the Act relevant to the item of business.

**Note: Clause 3.21 reflects section 9(2A)(a) of the Act.**

- 3.22 The CEO must ensure that the details of any item of business which, in the opinion of the CEO, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

### Statement of ethical obligations

- 3.23 Business papers for all ordinary and extraordinary meetings of the council and committees of the council must contain a statement reminding councillors of their oath or affirmation of office made under section 233A of the Act and their obligations under the council's code of conduct to disclose and appropriately manage conflicts of interest.

### Availability of the agenda and business papers to the public

- 3.24 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and at such other venues determined by the council.

**Note: Clause 3.23 reflects section 9(2) and (4) of the Act.**

- 3.25 Clause 3.23 does not apply to the business papers for items of business that the CEO has identified under clause 3.21 as being likely to be considered when the meeting is closed to the public.

**Note: Clause 3.24 reflects section 9(2A)(b) of the Act.**

- 3.26 For the purposes of clause 3.23, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors.

**Note: Clause 3.25 reflects section 9(3) of the Act.**

- 3.27 A copy of an agenda, or of an associated business paper made available under clause 3.23, may in addition be given or made available in electronic form.

**Note: Clause 3.26 reflects section 9(5) of the Act.**



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## Code of Meeting Practice 2022

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### Agenda and business papers for extraordinary meetings

- 3.28 The CEO must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.
- 3.29 Despite clause 3.27, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:
- (a) a motion is passed to have the business considered at the meeting, and
  - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 3.30 A motion moved under clause 3.28(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.
- 3.31 Despite clauses 10.20–10.30, only the mover of a motion moved under clause 3.28(a) can speak to the motion before it is put.
- 3.32 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.28(b) on whether a matter is of great urgency.

### Pre-meeting briefing sessions

- 3.33 Prior to each ordinary meeting of the council, the CEO may arrange a pre-meeting briefing session to brief councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.
- 3.34 Pre-meeting briefing sessions are to be held in the absence of the public.
- 3.35 Pre-meeting briefing sessions may be held by audio-visual link.
- 3.36 The CEO or a member of staff nominated by the CEO is to preside at pre-meeting briefing sessions.
- 3.37 Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.
- 3.38 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.

## 4 PUBLIC FORUMS

- 4.1 The council may hold a public forum as part of its meeting process for the council. The purpose of the public forum is to:
- hear oral submissions from members of the public on items of business to be considered at the meeting,
  - the tabling of petitions and



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- the tabling of Questions on Notice from the public on any issue relating to the Council's legislative responsibilities and activities. Public forums may also be held at extraordinary council meetings and meetings of committees of the council.
- 4.2 Public forums may be held by audio-visual link.
- 4.3 Public forums are to be chaired by the mayor or their nominee.
- 4.4 To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by the Clerk of the Chamber prior to the commencement of the meeting at which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.
- 4.5 A person may apply to speak on more than one item of business on the agenda of the council meeting but must do so within the allocated time limit as set by this code.
- 4.6 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.
- 4.7 The CEO or their delegate may refuse an application to speak at a public forum. The CEO or their delegate must give reasons in writing for a decision to refuse an application.
- 4.8 No more than 10 speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the council meeting.
- 4.9 If more than the 10 speakers apply to speak 'for' or 'against' any item of business, the CEO or their delegate may request the speakers to nominate from among themselves the persons who are to address the council on the item of business. If the speakers are not able to agree on whom to nominate to address the council, the CEO or their delegate is to determine who will address the council at the public forum.
- 4.10 If more than the 10 speakers apply to speak 'for' or 'against' any item of business, the CEO or their delegate may, in consultation with the mayor or the mayor's nominated chairperson, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the council to hear a fuller range of views on the relevant item of business.
- 4.11 Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than **[number to be specified by the council]** days before the public forum. The CEO or their delegate may refuse to allow such material to be presented.
- 4.12 The CEO or their delegate is to determine the order of speakers at the public forum.
- 4.13 Each speaker will be allowed three (3) minutes to address the council. This time is to be strictly enforced by the chairperson.
- 4.14 Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.



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- 4.15 Speakers at public forums cannot ask questions of the council, councillors, or council staff.
- 4.16 The CEO or their nominee may, with the concurrence of the chairperson, address the council for up to two minutes in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.
- 4.17 Where an address made at a public forum raises matters that require further consideration by council staff, the CEO may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.
- 4.18 When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies, and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
- 4.19 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.18, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.
- 4.20 Clause 4.19 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this code.
- 4.21 Where a speaker engages in conduct of the type referred to in clause 4.18, the CEO or their delegate may refuse further applications from that person to speak at public forums for such a period as the CEO or their delegate considers appropriate.
- 4.22 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.

**Note 1:** Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council. Where a public forum is held as part of a council or committee meeting, it must be conducted in accordance with the other requirements of this code relating to the conduct of council and committee meetings.

**Note 2:**

- The Chair will adjourn the meeting to allow for the commencement of the public forum.
- The public forum will commence where speakers will address the council. This will be followed by the tabling of petitions (if any) and questions on notice (if any).
- Petitions must be submitted to the CEO as per the requirements of Council's Petition Policy and Questions on Notice must be submitted to the CEO by email or letter. Responses to questions will be tabled at subsequent public forums and be published on Council's website.
- Once all items in the public forum have been dealt with, then the Chair will reconvene the Council meeting and deal with the remaining items within the Order of Business as set out in this Code.



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### 5 COMING TOGETHER

#### Attendance by councillors at meetings

- 5.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.

**Note: A councillor may not attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected or a meeting at which the councillor takes an oath or makes an affirmation of office) until they have taken an oath or made an affirmation of office in the form prescribed under section 233A of the Act.**

- 5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting, unless permitted to attend the meeting by audio-visual link under this code.

- 5.4 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However, the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.

- 5.5 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.

- 5.6 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.

- 5.7 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

**Note: Clause 5.7 reflects section 234(1)(d) of the Act.**

- 5.8 A councillor who intends to attend a meeting of the council despite having been granted a leave of absence should, if practicable, give the CEO at least two (2) days' notice of their intention to attend.

#### The quorum for a meeting

- 5.9 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office.

**Note: Clause 5.9 reflects section 368(1) of the Act.**

- 5.10 Clause 5.9 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

**Note: Clause 5.10 reflects section 368(2) of the Act.**

- 5.11 A meeting of the council must be adjourned if a quorum is not present:



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- (a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
  - (b) within half an hour after the time designated for the holding of the meeting, or
  - (c) at any time during the meeting.
- 5.12 In either case, the meeting must be adjourned to a time, date, and place fixed:
  - (a) by the chairperson, or
  - (b) in the chairperson's absence, by the majority of the councillors present, or
  - (c) failing that, by the CEO.
- 5.13 The CEO must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.
- 5.14 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the health, safety or welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster or a public health emergency, the mayor may, in consultation with the CEO and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.
- 5.15 Where a meeting is cancelled under clause 5.14, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.3.

### Meetings held by audio-visual link

- 5.16 A meeting of the council or a committee of the council may be held by audio-visual link where the mayor determines that the meeting should be held by audio-visual link because of a natural disaster or a public health emergency. The mayor may only make a determination under this clause where they are satisfied that attendance at the meeting may put the health and safety of councillors and staff at risk. The mayor must make a determination under this clause in consultation with the CEO and, as far as is practicable, with each councillor.
- 5.17 Where the mayor determines under clause 5.16 that a meeting is to be held by audio-visual link, the CEO must:
  - (a) give written notice to all councillors that the meeting is to be held by audio-visual link, and
  - (b) take all reasonable steps to ensure that all councillors can participate in the meeting by audio-visual link, and
  - (c) cause a notice to be published on the council's website and in such other manner the CEO is satisfied will bring it to the attention of as many people as possible, advising that the meeting is to be held by audio-visual link and providing information about where members of the public may view the meeting.
- 5.18 This code applies to a meeting held by audio-visual link under clause 5.16 in the same way it would if the meeting was held in person.



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**Note: Where a council holds a meeting by audio-visual link under clause 5.16, it is still required under section 10 of the Act to provide a physical venue for members of the public to attend in person and observe the meeting.**

### Attendance by councillors at meetings by audio-visual link

- 5.19 Councillors may attend and participate in meetings of the council and committees of the council by audio-visual link with the approval of the council or the relevant committee.
- 5.20 A request by a councillor for approval to attend a meeting by audio-visual link must be made in writing to the CEO prior to the meeting in question and must provide reasons why the councillor will be prevented from attending the meeting in person.
- 5.21 Councillors may request approval to attend more than one meeting by audio-visual link. Where a councillor requests approval to attend more than one meeting by audio-visual link, the request must specify the meetings the request relates to in addition to the information required under clause 5.20.
- 5.22 The council must comply with the Health Privacy Principles prescribed under the *Health Records and Information Privacy Act 2002* when collecting, holding, using and disclosing health information in connection with a request by a councillor to attend a meeting by audio-visual link.
- 5.23 A councillor who has requested approval to attend a meeting of the council or a committee of the council by audio-visual link may participate in the meeting by audio-visual link until the council or committee determines whether to approve their request and is to be taken as present at the meeting. The councillor may participate in a decision in relation to their request to attend the meeting by audio-visual link.
- 5.24 A decision whether to approve a request by a councillor to attend a meeting of the council or a committee of the council by audio-visual link must be made by a resolution of the council or the committee concerned. The resolution must state:
- (a) the meetings the resolution applies to, and
  - (b) the reason why the councillor is being permitted to attend the meetings by audio-visual link where it is on grounds other than illness, disability, or caring responsibilities.
- 5.25 If the council or committee refuses a councillor's request to attend a meeting by audio-visual link, their link to the meeting is to be terminated.
- 5.26 A decision whether to approve a councillor's request to attend a meeting by audio-visual link is at the council's or the relevant committee's discretion. The council and committees of the council must act reasonably when considering requests by councillors to attend meetings by audio-visual link. However, the council and committees of the council are under no obligation to approve a councillor's request to attend a meeting by audio-visual link where the technical capacity does not exist to allow the councillor to attend the meeting by these means.
- 5.27 The council and committees of the council may refuse a councillor's request to attend a meeting by audio-visual link where the council or committee is satisfied that the councillor has failed to appropriately declare and manage conflicts of interest, observe confidentiality or to comply with this code on one or more previous occasions they have attended a meeting of the council or a committee of the council by audio-visual link.
- 5.28 This code applies to a councillor attending a meeting by audio-visual link in the same way it would if the councillor was attending the meeting in person. Where a councillor is permitted to attend a



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meeting by audio-visual link under this code, they are to be taken as attending the meeting in person for the purposes of the code and will have the same voting rights as if they were attending the meeting in person.

- 5.29 A councillor must give their full attention to the business and proceedings of the meeting when attending a meeting by audio-visual link. The councillor's camera must be on at all times during the meeting except as may be otherwise provided for under this code.
- 5.30 A councillor must be appropriately dressed when attending a meeting by audio-visual link and must ensure that no items are within sight of the meeting that are inconsistent with the maintenance of order at the meeting or that are likely to bring the council or the committee into disrepute.

### Entitlement of the public to attend council meetings

- 5.31 Everyone is entitled to attend a meeting of the council and committees of the council. The council must ensure that all meetings of the council and committees of the council are open to the public.

**Note: Clause 5.31 reflects section 10(1) of the Act.**

- 5.32 Clause 5.31 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.

- 5.33 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:

- (a) by a resolution of the meeting, or
- (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

**Note 1: Clause 5.33 reflects section 10(2) of the Act.**

**Note 2: If adopted, clauses 15.14 and 15.15 confer a standing authorisation on all chairpersons of meetings of the council and committees of the council to expel persons from meetings. If adopted, clause 15.14 authorises chairpersons to expel any person, including a councillor, from a council or committee meeting. Alternatively, if adopted, clause 15.15 authorises chairpersons to expel persons other than councillors from a council or committee meeting.**

### Webcasting of meetings

- 5.34 Each meeting of the council or a committee of the council is to be recorded by means of an audio or audio-visual device.
- 5.35 At the start of each meeting of the council or a committee of the council, the chairperson must inform the persons attending the meeting that:
- (a) the meeting is being recorded and made publicly available on the council's website, and
  - (b) persons attending the meeting should refrain from making any defamatory statements.
- 5.36 The recording of a meeting is to be made publicly available on the council's website:
- (a) at the same time as the meeting is taking place, or
  - (b) as soon as practicable after the meeting.



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5.37 The recording of a meeting is to be made publicly available on the council's website for at least 12 months after the meeting.

5.38 Clauses 5.36 and 5.37 do not apply to any part of a meeting that has been closed to the public in accordance with section 10A of the Act.

**Note: Clauses 5.34 – 5.38 reflect section 236 of the Regulation.**

5.39 Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

### Attendance of the CEO and other staff at meetings

5.40 The CEO is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all of the members are councillors.

**Note: Clause 5.40 reflects section 376(1) of the Act.**

5.41 The CEO is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.

**Note: Clause 5.41 reflects section 376(2) of the Act.**

5.42 The CEO may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the CEO or the terms of employment of the CEO.

**Note: Clause 5.42 reflects section 376(3) of the Act.**

5.43 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the CEO.

5.44 The CEO and other council staff may attend meetings of the council and committees of the council by audio-visual-link. Attendance by council staff at meetings by audio-visual link (other than as members of the public) shall be with the approval of the CEO.

## 6 THE CHAIRPERSON

### The chairperson at meetings

6.1 The mayor, or at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council.

**Note: Clause 6.1 reflects section 369(1) of the Act.**

6.2 If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

**Note: Clause 6.2 reflects section 369(2) of the Act.**



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### Election of the chairperson in the absence of the mayor and deputy mayor

- 6.3 If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.
- 6.4 The election of a chairperson must be conducted:
- (a) by the CEO or, in their absence, an employee of the council designated by the CEO to conduct the election, or
  - (b) by the person who called the meeting or a person acting on their behalf if neither the CEO nor a designated employee is present at the meeting, or if there is no CEO or designated employee.
- 6.5 If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- 6.6 For the purposes of clause 6.5, the person conducting the election must:
- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
  - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- 6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.
- 6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

### Chairperson to have precedence

- 6.9 When the chairperson rises or speaks during a meeting of the council:
- (a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
  - (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

## 7 MODES OF ADDRESS

- 7.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.
- 7.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.
- 7.3 A councillor is to be addressed as 'Councillor [surname]'.
- 7.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].

## 8 ORDER OF BUSINESS FOR ORDINARY COUNCIL MEETINGS

- 8.2 The general order of business for an ordinary meeting of the council shall be:



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- 01 Opening meeting
- 02 Acknowledgement of country
- 03 Apologies and applications for a leave of absence or attendance by audio-visual link by councillors
- 04 Confirmation of minutes
- 05 Disclosures of interests
- 06 [Adjournment for Public Forum]
- 07 Mayoral minute(s)
- 08 Notices of Rescission Motions
- 09 Reports to council [including Delegates Reports]
- 10 Reports of committees
- 11 Notices of motions
- 12 Questions with notice
- 13 Confidential matters
- 14 Conclusion of the meeting

- 8.3 The order of business as fixed under clause 8.2 may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

**Note: If adopted, Part 13 allows council to deal with items of business by exception.**

- 8.4 Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 8.3 may speak to the motion before it is put.

## 9 CONSIDERATION OF BUSINESS AT COUNCIL MEETINGS

### Business that can be dealt with at a council meeting

- 9.1 The council must not consider business at a meeting of the council:
- (a) unless a councillor has given notice of the business, as required by clause 3.10, and
  - (b) unless notice of the business has been sent to the councillors in accordance with clause 3.7 in the case of an ordinary meeting or clause 3.9 in the case of an extraordinary meeting called in an emergency.
- 9.2 Clause 9.1 does not apply to the consideration of business at a meeting, if the business:
- (a) is already before, or directly relates to, a matter that is already before the council, or
  - (b) is the election of a chairperson to preside at the meeting, or
  - (c) subject to clause 9.9, is a matter or topic put to the meeting by way of a mayoral minute, or
  - (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.
- 9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:
- (a) a motion is passed to have the business considered at the meeting, and
  - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.



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9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.

9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

### Mayoral minutes

9.6 Subject to clause 9.9, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.

9.7 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.

9.8 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.

9.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.

9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the CEO on the availability of funds for implementing the recommendation if adopted.

### Staff reports

9.11 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

### Reports of committees of council

9.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.

9.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

### Questions

9.14 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.10 and 3.14.

9.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.



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- 9.16 A councillor may, through the CEO, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the CEO at the direction of the CEO.
- 9.17 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to information. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.
- 9.18 Councillors must put questions directly, succinctly, respectfully and without argument.
- 9.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

### 10 RULES OF DEBATE

#### Motions to be seconded

- 10.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

#### Notices of motion

- 10.2 A councillor who has submitted a notice of motion under clause 3.10 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.3 If a councillor who has submitted a notice of motion under clause 3.10 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.
- 10.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:
- (a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or
  - (b) the chairperson may defer consideration of the motion until the next meeting of the council.

#### Chairperson's duties with respect to motions

- 10.5 It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.
- 10.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.
- 10.7 Before ruling out of order a motion or an amendment to a motion under clause 10.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.
- 10.8 Any motion, amendment, or other matter that the chairperson has ruled out of order is taken to have been lost.



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### Motions requiring the expenditure of funds

- 10.9 A motion or an amendment to a motion which, if passed, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. If the motion does not identify a funding source, the council must defer consideration of the matter, pending a report from the CEO on the availability of funds for implementing the motion if adopted.

### Amendments to motions

- 10.10 An amendment to a motion must be moved and seconded before it can be debated.
- 10.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.
- 10.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.
- 10.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.
- 10.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 10.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 10.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

### Foreshadowed motions

- 10.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.
- 10.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.
- 10.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.



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### Limitations on the number and duration of speeches

- 10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.
- 10.21 A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- 10.22 A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time.
- 10.23 Despite clause 10.22, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 10.24 Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.
- 10.25 Despite clauses 10.20 and 10.21, a councillor may move that a motion or an amendment be now put:
- (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
  - (b) if at least two (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.
- 10.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 10.25. A seconder is not required for such a motion.
- 10.27 If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under clause 10.20.
- 10.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.
- 10.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.
- 10.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

## 11 VOTING

### Voting entitlements of councillors

- 11.1 Each councillor is entitled to one (1) vote.

**Note: Clause 11.1 reflects section 370(1) of the Act.**



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- 11.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.

**Note: Clause 11.2 reflects section 370(2) of the Act.**

- 11.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

### Voting at council meetings

- 11.5 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.

- 11.10 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

- 11.11 All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

**Note: If clause 11.11 is adopted, clauses 11.6 – 11.9 and clause 11.13 may be omitted.**

### Voting on planning decisions

- 11.12 The CEO must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.

- 11.14 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.

- 11.15 Clauses 11.12–11.14 apply also to meetings that are closed to the public.

**Note: Clauses 11.12–11.15 reflect section 375A of the Act.**

**Note: The requirements of clause 11.12 may be satisfied by maintaining a register of the minutes of each planning decision.**

## 12 COMMITTEE OF THE WHOLE

- 12.1 The council may resolve itself into a committee to consider any matter before the council.

**Note: Clause 12.1 reflects section 373 of the Act.**

- 12.2 All the provisions of this code relating to meetings of the council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provisions limiting the number and duration of speeches.

**Note: Clauses 10.20–10.30 limit the number and duration of speeches.**



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- 12.3 The CEO or, in the absence of the CEO, an employee of the council designated by the CEO, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full, but any recommendations of the committee must be reported.
- 12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

### 13 DEALING WITH ITEMS BY EXCEPTION

- 13.1 The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution.
- 13.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.
- 13.3 The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.
- 13.4 Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.3.
- 13.5 A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.
- 13.6 Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.
- 13.7 Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 13.1 in accordance with the requirements of the council's code of conduct.

### 14 CLOSURE OF COUNCIL MEETINGS TO THE PUBLIC

#### Grounds on which meetings can be closed to the public

- 14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:
- (a) personnel matters concerning particular individuals (other than councillors),
  - (b) the personal hardship of any resident or ratepayer,
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret,
  - (e) information that would, if disclosed, prejudice the maintenance of law,
  - (f) matters affecting the security of the council, councillors, council staff or council property,



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- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
- (i) alleged contraventions of the council's code of conduct.

**Note: Clause 14.1 reflects section 10A(1) and (2) of the Act.**

- 14.2 The council or a committee of the council may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

**Note: Clause 14.2 reflects section 10A(3) of the Act.**

### Matters to be considered when closing meetings to the public

- 14.3 A meeting is not to remain closed during the discussion of anything referred to in clause 14.1:
- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
  - (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

**Note: Clause 14.3 reflects section 10B(1) of the Act.**

- 14.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 14.1(g) unless the advice concerns legal matters that:
- (a) are substantial issues relating to a matter in which the council or committee is involved, and
  - (b) are clearly identified in the advice, and
  - (c) are fully discussed in that advice.

**Note: Clause 14.4 reflects section 10B(2) of the Act.**

- 14.5 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in clause 14.2), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in clause 14.1.

**Note: Clause 14.5 reflects section 10B(3) of the Act.**

- 14.6 For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
- (a) a person may misinterpret or misunderstand the discussion, or
  - (b) the discussion of the matter may:
    - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
    - (ii) cause a loss of confidence in the council or committee.

**Note: Clause 14.6 reflects section 10B(4) of the Act.**

- 14.7 In deciding whether part of a meeting is to be closed to the public, the council or committee



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concerned must consider any relevant guidelines issued by the Departmental Chief Executive of the Office of Local Government.

**Note: Clause 14.7 reflects section 10B(5) of the Act.**

### Notice of likelihood of closure not required in urgent cases

- 14.8 Part of a meeting of the council, or of a committee of the council, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed, but only if:
- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 14.1, and
  - (b) the council or committee, after considering any representations made under clause 14.9, resolves that further discussion of the matter:
    - (i) should not be deferred (because of the urgency of the matter), and
    - (ii) should take place in a part of the meeting that is closed to the public.

**Note: Clause 14.8 reflects section 10C of the Act.**

### Representations by members of the public

- 14.9 The council, or a committee of the council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

**Note: Clause 14.9 reflects section 10A(4) of the Act.**

- 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by **[date and time to be specified by the council]** before the meeting at which the matter is to be considered.
- 14.12 The CEO (or their delegate) may refuse an application made under clause 14.11. The CEO or their delegate must give reasons in writing for a decision to refuse an application.
- 14.13 No more than two (2) speakers are to be permitted to make representations under clause 14.9.
- 14.14 If more than two speakers apply to make representations under clause 14.9, the CEO or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the CEO or their delegate is to determine who will make representations to the council.
- 14.15 The CEO or their delegate is to determine the order of speakers.
- 14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed



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to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than two (2) speakers to make representations in such order as determined by the chairperson.

- 14.17 Each speaker will be allowed three (3) minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

### Expulsion of non-councillors from meetings closed to the public

- 14.18 If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a councillor or relevant staff member and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.
- 14.19 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.
- 14.20 Councillors attending a meeting by audio-visual link must ensure that no other person is within sight or hearing of the meeting at any time that the meeting is closed to the public under section 10A of the Act.

### Information to be disclosed in resolutions closing meetings to the public

- 14.21 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting. The grounds must specify the following:
- (a) the relevant provision of section 10A(2) of the Act,
  - (b) the matter that is to be discussed during the closed part of the meeting,
  - (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

**Note: Clause 14.20 reflects section 10D of the Act.**

### Resolutions passed at closed meetings to be made public

- 14.22 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.
- 14.23 Resolutions passed during a meeting, or a part of a meeting that is closed to the public, must be made public by the chairperson under clause 14.22 during a part of the meeting that is webcast.



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### 15 KEEPING ORDER AT MEETINGS

#### Points of order

- 15.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.
- 15.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.
- 15.3 A point of order must be taken immediately it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

#### Questions of order

- 15.4 The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- 15.5 A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- 15.6 The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.
- 15.7 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

#### Motions of dissent

- 15.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 15.9 If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 15.10 Despite any other provision of this code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

#### Acts of disorder

- 15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:
- (a) contravenes the Act, the Regulation or this code, or
  - (b) assaults or threatens to assault another councillor or person present at the meeting, or
  - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or



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- (d) insults, makes unfavourable personal remarks about, or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
- (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.

**Note: Clause 15.11 reflects section 182 of the Regulation.**

15.12 The chairperson may require a councillor:

- (a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a), (b), or (e) or
- (b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or
- (c) to retract and apologise without reservation for any statement that constitutes an act of disorder referred to in clauses 15.11(d) and (e).

**Note: Clause 15.12 reflects section 233 of the Regulation.**

### How disorder at a meeting may be dealt with

15.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

### Expulsion from meetings

15.15 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of the council or the committee of the council.

15.16 Clause 15.15 does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.

15.17 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

**Note: Clause 15.17 reflects section 233(2) of the Regulation.**

15.18 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.

15.19 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.

15.20 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary,



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remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

### How disorder by councillors attending meetings by audio-visual link may be dealt with

- 15.21 Where a councillor is attending a meeting by audio-visual link, the chairperson or a person authorised by the chairperson may mute the councillor's audio link to the meeting for the purposes of enforcing compliance with this code.
- 15.22 If a councillor attending a meeting by audio-visual link is expelled from a meeting for an act of disorder, the chairperson of the meeting or a person authorised by the chairperson, may terminate the councillor's audio-visual link to the meeting.

### Use of mobile phones and the unauthorised recording of meetings

- 15.23 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.
- 15.24 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.
- 15.25 Without limiting clause 15.18, a contravention of clause 15.24 or an attempt to contravene that clause, constitutes disorderly conduct for the purposes of clause 15.18. Any person who contravenes or attempts to contravene clause 15.24, may be expelled from the meeting as provided for under section 10(2) of the Act.
- 15.26 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

## 16 CONFLICTS OF INTEREST

- 16.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the council and committees of the council in accordance with the council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the meeting at which the declaration was made.
- 16.2 Councillors attending a meeting, briefing or workshop by audio-visual link must declare and manage any conflicts of interest they may have in matters being considered at the meeting, briefing or workshop in accordance with the council's code of conduct. Where a councillor has declared a pecuniary or significant non-pecuniary conflict of interest in a matter being discussed at the meeting, briefing or workshop, the councillor's audio-visual link to the meeting must be suspended or terminated and the councillor must not be in sight or hearing of the meeting at any time during which the matter is being considered or discussed by the council or committee, or at any time during which the council or committee is voting on the matter.



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### 17 DECISIONS OF THE COUNCIL

#### Council decisions

- 17.1 A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

**Note: Clause 17.1 reflects section 371 of the Act.**

- 17.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

#### Rescinding or altering council decisions

- 17.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.10.

**Note: Clause 17.3 reflects section 372(1) of the Act.**

- 17.4 If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

**Note: Clause 17.4 reflects section 372(2) of the Act.**

- 17.5 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.10.

**Note: Clause 17.5 reflects section 372(3) of the Act.**

- 17.6 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.

**Note: Clause 17.6 reflects section 372(4) of the Act.**

- 17.7 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.

**Note: Clause 17.7 reflects section 372(5) of the Act.**

- 17.8 The provisions of clauses 17.5–17.7 concerning lost motions do not apply to motions of adjournment.

**Note: Clause 17.8 reflects section 372(7) of the Act.**

- 17.9 A notice of motion submitted in accordance with clause 17.6 may only be withdrawn under clause 3.11 with the consent of all signatories to the notice of motion.

- 17.10 A notice of motion to alter or rescind a resolution relating to a development application and the awarding of contracts must be submitted to the CEO no later than **5.00pm on the Friday following the meeting** at which the resolution was adopted.



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## Code of Meeting Practice 2022

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- 17.11 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.

**Note: Clause 17.11 reflects section 372(6) of the Act.**

- 17.12 Subject to clause 17.7, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:
- (a) a notice of motion signed by three councillors is submitted to the chairperson, and
  - (b) a motion to have the motion considered at the meeting is passed, and
  - (c) the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 17.13 A motion moved under clause 17.12(b) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.12(b) can speak to the motion before it is put.
- 17.14 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.12(c).

### Recommitting resolutions to correct an error

- 17.15 Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:
- (a) to correct any error, ambiguity or imprecision in the council's resolution, or
  - (b) to confirm the voting on the resolution.
- 17.16 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.15(a), the councillor is to propose alternative wording for the resolution.
- 17.17 The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.15(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.
- 17.18 A motion moved under clause 17.15 can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.
- 17.19 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.15.
- 17.20 A motion moved under clause 17.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

## 18 TIME LIMITS ON COUNCIL MEETINGS

- 18.1 Meetings of the council and committees of the council are to conclude no later than 9.30pm.
- 18.2 If the business of the meeting is unfinished at 9.30pm, the council or the committee may, by resolution, extend the time of the meeting.
- 18.3 If the business of the meeting is unfinished at 9.30pm, and the council does not resolve to extend the meeting, the chairperson must either:
- (a) defer consideration of the remaining items of business on the agenda to the next ordinary



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- meeting of the council, or
  - (b) adjourn the meeting to a time, date and place fixed by the chairperson.
- 18.4 Clause 18.3 does not limit the ability of the council or a committee of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.
- 18.5 Where a meeting is adjourned under clause 18.3 or 18.4, the CEO must:
- (a) individually notify each councillor of the time, date and place at which the meeting will reconvene, and
  - (b) publish the time, date and place at which the meeting will reconvene on the council's website and in such other manner that the CEO is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

## 19 AFTER THE MEETING

### Minutes of meetings

- 19.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.
- Note: Clause 19.1 reflects section 375(1) of the Act.**
- 19.2 At a minimum, the CEO must ensure that the following matters are recorded in the council's minutes:
- (a) the names of councillors attending a council meeting and whether they attended the meeting in person or by audio-visual link,
  - (b) details of each motion moved at a council meeting and of any amendments moved to it,
  - (c) the names of the mover and seconder of the motion or amendment,
  - (d) whether the motion or amendment was passed or lost, and
  - (e) such other matters specifically required under this code.
- 19.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.
- Note: Clause 19.3 reflects section 375(2) of the Act.**
- 19.4 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 19.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting.
- Note: Clause 19.5 reflects section 375(2) of the Act.**
- 19.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 19.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.



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### Access to correspondence and reports laid on the table at, or submitted to, a meeting

- 19.8 The council and committees of the council must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.

**Note: Clause 19.8 reflects section 11(1) of the Act.**

- 19.9 Clause 19.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

**Note: Clause 19.9 reflects section 11(2) of the Act.**

- 19.10 Clause 19.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

**Note: Clause 19.10 reflects section 11(3) of the Act.**

- 19.11 Correspondence or reports to which clauses 19.9 and 19.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

### Implementation of decisions of the council

- 19.12 The CEO is to implement, without undue delay, lawful decisions of the council.

**Note: Clause 19.12 reflects section 335(b) of the Act.**

## 20 COUNCIL COMMITTEES

### Application of this Part

- 20.1 This Part only applies to committees of the council whose members are all councillors.

### Council committees whose members are all councillors

- 20.2 The council may, by resolution, establish such committees as it considers necessary.
- 20.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.
- 20.4 The quorum for a meeting of a committee of the council is to be:
- (a) such number of members as the council decides, or
  - (b) if the council has not decided a number – a majority of the members of the committee.

### Functions of committees

- 20.5 The council must specify the functions of each of its committees when the committee is established but may from time to time amend those functions.



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### Notice of committee meetings

- 20.6 The CEO must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:
- (a) the time, date and place of the meeting, and
  - (b) the business proposed to be considered at the meeting.
- 20.7 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

### Attendance at committee meetings

- 20.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:
- (a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
  - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- 20.9 Clause 20.8 does not apply if all of the members of the council are members of the committee.

### Non-members entitled to attend committee meetings

- 20.10 A councillor who is not a member of a committee of the council is entitled to attend, and to speak at a meeting of the committee. However, the councillor is not entitled:
- (a) to give notice of business for inclusion in the agenda for the meeting, or
  - (b) to move or second a motion at the meeting, or
  - (c) to vote at the meeting.

### Chairperson and deputy chairperson of council committees

- 20.11 The chairperson of each committee of the council must be:
- (a) the mayor, or
  - (b) if the mayor does not wish to be the chairperson of a committee, a member of the committee elected by the council, or
  - (c) if the council does not elect such a member, a member of the committee elected by the committee.
- 20.12 The council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
- 20.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.
- 20.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.



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## Code of Meeting Practice 2022

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### Procedure in committee meetings

- 20.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.
- 20.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 20.15.
- 20.18 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

### Closure of committee meetings to the public

- 20.19 The provisions of the Act and Part 14 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.
- 20.20 If a committee of the council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting that is closed to the public, the chairperson must make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.
- 20.21 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 20.20 during a part of the meeting that is webcast.

### Disorder in committee meetings

- 20.22 The provisions of the Act and this code relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

### Minutes of council committee meetings

- 20.23 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:
- (a) the names of councillors attending a meeting and whether they attended the meeting in person or by audio-visual link,
  - (b) details of each motion moved at a meeting and of any amendments moved to it,
  - (c) the names of the mover and seconder of the motion or amendment,
  - (d) whether the motion or amendment was passed or lost, and
  - (e) such other matters specifically required under this code.
- 20.24 All voting at meetings of committees of the council (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.
- 20.25 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.



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- 20.26 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 20.27 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.
- 20.28 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 20.29 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.

## 21 IRREGULARITIES

- 21.1 Proceedings at a meeting of a council or a council committee are not invalidated because of:
- (a) a vacancy in a civic office, or
  - (b) a failure to give notice of the meeting to any councillor or committee member, or
  - (c) any defect in the election or appointment of a councillor or committee member, or
  - (d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or
  - (e) a failure to comply with this code.

**Note: Clause 21.1 reflects section 374 of the Act.**



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### 22 DEFINITIONS

the Act	means the <i>Local Government Act 1993</i>
act of disorder	means an act of disorder as defined in clause 15.11 of this code
amendment	in relation to an original motion, means a motion moving an amendment to that motion
audio recorder	any device capable of recording speech
audio-visual link	means a facility that enables audio and visual communication between persons at different places
business day	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales
chairperson	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 20.11 of this code
this code	means the council's adopted code of meeting practice
committee of the council	means a committee established by the council in accordance with clause 20.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1
council official	has the same meaning it has in the Model Code of Conduct for Local Councils in NSW
day	means calendar day
division	means a request by two councillors under clause 11.7 of this code requiring the recording of the names of the councillors who voted both for and against a motion
foreshadowed amendment	means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment
foreshadowed motion	means a motion foreshadowed by a councillor under clause 10.17 of this code during debate on an original motion
open voting	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
planning decision	means a decision made in the exercise of a function of a council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act
performance improvement order	means an order issued under section 438A of the Act
quorum	means the minimum number of councillors or committee members necessary to conduct a meeting
the Regulation	means the <i>Local Government (General) Regulation 2021</i>



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webcast	a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time
year	means the period beginning 1 July and ending the following 30 June



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# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.7 CODE OF MEETING PRACTICE

ATTACHMENT 2 OFFICE OF LOCAL GOVERNMENT'S 2021 MODEL CODE OF  
MEETING PRACTICE FOR LOCAL COUNCILS IN NSW



# MODEL CODE OF MEETING PRACTICE

for Local Councils  
in NSW

2021



## **MODEL CODE OF MEETING PRACTICE FOR LOCAL COUNCILS IN NSW**

2021

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# 1 Introduction

This Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is prescribed under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2021* (the Regulation).

The Model Meeting Code applies to all meetings of councils and committees of councils of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.

Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code.

A council's adopted code of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, a code of meeting practice adopted by a council must not contain provisions that are inconsistent with the mandatory provisions of this Model Meeting Code.

The provisions of the Model Meeting Code that are not mandatory are indicated in red font.

A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by the council.

The Model Meeting Code also applies to meetings of the boards of joint organisations and county councils. The provisions that are specific to meetings of boards of joint organisations are indicated in blue font.

In adopting the Model Meeting Code, joint organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".

In adopting the Model Meeting Code, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".

## 2 Meeting Principles



2.1 Council and committee meetings should be:

<b>Transparent:</b>	Decisions are made in a way that is open and accountable.
<b>Informed:</b>	Decisions are made based on relevant, quality information.
<b>Inclusive:</b>	Decisions respect the diverse needs and interests of the local community.
<b>Principled:</b>	Decisions are informed by the principles prescribed under Chapter 3 of the Act.
<b>Trusted:</b>	The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.
<b>Respectful:</b>	Councillors, staff and meeting attendees treat each other with respect.
<b>Effective:</b>	Meetings are well organised, effectively run and skilfully chaired.
<b>Orderly:</b>	Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

## 3 Before the Meeting

## Timing of ordinary council meetings

- 3.1 Ordinary meetings of the council will be held on the following occasions: **[council to specify the frequency, time, date and place of its ordinary meetings]**.
- 3.2 The council shall, by resolution, set the frequency, time, date and place of its ordinary meetings.

**Note: Councils must use either clause 3.1 or 3.2.**

**Note: Under section 365 of the Act, councils are required to meet at least ten (10) times each year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a council is required to meet each year under section 365A.**

**Note: Under section 396 of the Act, county councils are required to meet at least four (4) times each year.**

**Note: Under section 400T of the Act, boards of joint organisations are required to meet at least four (4) times each year, each in a different quarter of the year.**

## Extraordinary meetings

- 3.3 If the mayor receives a request in writing, signed by at least two (2) councillors, the mayor must call an extraordinary meeting of the council to be held as soon as practicable, but in any event, no more than fourteen (14) days after receipt of the request. The mayor can be one of the two councillors requesting the meeting.

**Note: Clause 3.3 reflects section 366 of the Act.**

## Notice to the public of council meetings

- 3.4 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting of committees of the council.

**Note: Clause 3.4 reflects section 9(1) of the Act.**

- 3.5 For the purposes of clause 3.4, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.
- 3.6 For the purposes of clause 3.4, notice of more than one (1) meeting may be given in the same notice.

## Notice to councillors of ordinary council meetings

- 3.7 The general manager must send to each councillor, at least three (3) days before each meeting of the council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.

**Note: Clause 3.7 reflects section 367(1) of the Act.**

- 3.8 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form.

**Note: Clause 3.8 reflects section 367(3) of the Act.**

Model Code of Meeting Practice for Local Councils in NSW

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## Notice to councillors of extraordinary meetings

- 3.9 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency.

**Note: Clause 3.9 reflects section 367(2) of the Act.**

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## Giving notice of business to be considered at council meetings

- 3.10 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted **[council to specify notice period required]** business days before the meeting is to be held.
- 3.11 A councillor may, in writing to the general manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.
- 3.12 If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.

- 3.13 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the general manager must either:

- (a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or
- (b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.

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## Questions with notice

- 3.14 A councillor may, by way of a notice submitted under clause 3.10, ask a question for response by the general manager about the performance or operations of the council.
- 3.15 A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.
- 3.16 The general manager or their nominee may respond to a question with notice submitted under clause 3.14 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

## Agenda and business papers for ordinary meetings

- 3.17 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 3.18 The general manager must ensure that the agenda for an ordinary meeting of the council states:
- (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
  - (b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
  - (d) any business of which due notice has been given under clause 3.10.
- 3.19 Nothing in clause 3.18 limits the powers of the mayor to put a mayoral minute to a meeting under clause 9.6.
- 3.20 The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.
- 3.21 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when

the meeting is closed to the public, the general manager must ensure that the agenda of the meeting:

- (a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
- (b) states the grounds under section 10A(2) of the Act relevant to the item of business.

**Note: Clause 3.21 reflects section 9(2A) (a) of the Act.**

- 3.22 The general manager must ensure that the details of any item of business which, in the opinion of the general manager, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

## Statement of ethical obligations

- 3.23 Business papers for all ordinary and extraordinary meetings of the council and committees of the council must contain a statement reminding councillors of their oath or affirmation of office made under section 233A of the Act and their obligations under the council's code of conduct to disclose and appropriately manage conflicts of interest.

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## Availability of the agenda and business papers to the public

- 3.24 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and at such other venues determined by the council.

**Note: Clause 3.24 reflects section 9(2) and (4) of the Act.**

- 3.25 Clause 3.24 does not apply to the business papers for items of business that the general manager has identified under clause 3.21 as being likely to be considered when the meeting is closed to the public.

**Note: Clause 3.25 reflects section 9(2A)(b) of the Act.**

- 3.26 For the purposes of clause 3.24, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors.

**Note: Clause 3.26 reflects section 9(3) of the Act.**

- 3.27 A copy of an agenda, or of an associated business paper made available under clause 3.24, may in addition be given or made available in electronic form.

**Note: Clause 3.27 reflects section 9(5) of the Act.**

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## Agenda and business papers for extraordinary meetings

- 3.28 The general manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.

- 3.29 Despite clause 3.28, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:

(a) a motion is passed to have the business considered at the meeting, and

(b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

- 3.30 A motion moved under clause 3.29(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.

- 3.31 Despite clauses 10.20-10.30, only the mover of a motion moved under clause 3.29(a) can speak to the motion before it is put.

- 3.32 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.29(b) on whether a matter is of great urgency.



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## Pre-meeting briefing sessions

- 3.33 Prior to each ordinary meeting of the council, the general manager may arrange a pre-meeting briefing session to brief councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.
- 3.34 Pre-meeting briefing sessions are to be held in the absence of the public.
- 3.35 Pre-meeting briefing sessions may be held by audio-visual link.
- 3.36 The general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.
- 3.37 Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.
- 3.38 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.

## 4 Public Forums

- 4.1 The council may hold a public forum prior to each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council.
- 4.2 Public forums may be held by audio-visual link.
- 4.3 Public forums are to be chaired by the mayor or their nominee.
- 4.4 To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by **[date and time to be specified by the council]** before the date on which the public forum is to be held, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.
- 4.5 A person may apply to speak on no more than **[number to be specified by the council]** items of business on the agenda of the council meeting.
- 4.6 Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.
- 4.7 The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 4.8 No more than **[number to be specified by the council]** speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the council meeting.
- 4.9 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to address the council on the item of business. If the speakers are not able to agree on whom to nominate to address the council, the general manager or their delegate is to determine who will address the council at the public forum.
- 4.10 If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may, in consultation with the mayor or the mayor's nominated chairperson, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the council to hear a fuller range of views on the relevant item of business.
- 4.11 Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs no more than **[number to be specified by the council]** days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.
- 4.12 The general manager or their delegate is to determine the order of speakers at the public forum.
- 4.13 Each speaker will be allowed **[number to be specified by the council]** minutes to address the council. This time is to be strictly enforced by the chairperson.

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- 4.14 Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.
- 4.15 A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.
- 4.16 Speakers are under no obligation to answer a question put under clause 4.15. Answers by the speaker, to each question are to be limited to **[number to be specified by the council]** minutes.
- 4.17 Speakers at public forums cannot ask questions of the council, councillors, or council staff.
- 4.18 The general manager or their nominee may, with the concurrence of the chairperson, address the council for up to **[number to be specified by the council]** minutes in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.
- 4.19 Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.
- 4.20 When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies, and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
- 4.21 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.20, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.
- 4.22 Clause 4.21 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this code.
- 4.23 Where a speaker engages in conduct of the type referred to in clause 4.20, the general manager or their delegate may refuse further applications from that person to speak at public forums for such a period as the general manager or their delegate considers appropriate.
- 4.24 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.
- Note: Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council. Where a public forum is held as part of a council or committee meeting, it must be conducted in accordance with the other requirements of this code relating to the conduct of council and committee meetings.**



## 5 Coming Together



## Attendance by councillors at meetings

- 5.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.

**Note: A councillor may not attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected or a meeting at which the councillor takes an oath or makes an affirmation of office) until they have taken an oath or made an affirmation of office in the form prescribed under section 233A of the Act.**

- 5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting, unless permitted to attend the meeting by audio-visual link under this code.
- 5.3 The board of the joint organisation may, if it thinks fit, transact any of its business at a meeting at which representatives (or some representatives) participate by telephone or other electronic means, but only if any representative who speaks on a matter before the meeting can be heard by the other representatives. For the purposes of a meeting held in accordance with this clause, the chairperson and each other voting representative on the board have the same voting rights as they have at an ordinary meeting of the board.

**Note: Clause 5.3 reflects section 397G of the Regulation. Joint organisations may adopt clause 5.3 and omit clause 5.2. Councils must not adopt clause 5.3.**

- 5.4 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making

an apology if they are unable to attend a meeting. However, the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.

- 5.5 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.
- 5.6 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.
- 5.7 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

**Note: Clause 5.7 reflects section 234(1)(d) of the Act.**

- 5.8 A councillor who intends to attend a meeting of the council despite having been granted a leave of absence should, if practicable, give the general manager at least two (2) days' notice of their intention to attend.

## The quorum for a meeting

- 5.9 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office.

**Note: Clause 5.9 reflects section 368(1) of the Act.**

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- 5.10 Clause 5.9 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

**Note: Clause 5.10 reflects section 368(2) of the Act.**

- 5.11 A meeting of the council must be adjourned if a quorum is not present:
- (a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
  - (b) within half an hour after the time designated for the holding of the meeting, or
  - (c) at any time during the meeting.
- 5.12 In either case, the meeting must be adjourned to a time, date, and place fixed:
- (a) by the chairperson, or
  - (b) in the chairperson's absence, by the majority of the councillors present, or
  - (c) failing that, by the general manager.
- 5.13 The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.

- 5.14 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the health, safety or welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster or a public health emergency, the mayor may, in consultation with the general manager and, as far as is practicable, with each

councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.

- 5.15 Where a meeting is cancelled under clause 5.14, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.3.

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## Meetings held by audio-visual link

- 5.16 A meeting of the council or a committee of the council may be held by audio-visual link where the mayor determines that the meeting should be held by audio-visual link because of a natural disaster or a public health emergency. The mayor may only make a determination under this clause where they are satisfied that attendance at the meeting may put the health and safety of councillors and staff at risk. The mayor must make a determination under this clause in consultation with the general manager and, as far as is practicable, with each councillor.
- 5.17 Where the mayor determines under clause 5.16 that a meeting is to be held by audio-visual link, the general manager must:
- (a) give written notice to all councillors that the meeting is to be held by audio-visual link, and
  - (b) take all reasonable steps to ensure that all councillors can participate in the meeting by audio-visual link, and

- (c) cause a notice to be published on the council's website and in such other manner the general manager is satisfied will bring it to the attention of as many people as possible, advising that the meeting is to be held by audio-visual link and providing information about where members of the public may view the meeting.
- 5.18 This code applies to a meeting held by audio-visual link under clause 5.16 in the same way it would if the meeting was held in person.
- Note: Where a council holds a meeting by audio-visual link under clause 5.16, it is still required under section 10 of the Act to provide a physical venue for members of the public to attend in person and observe the meeting.**
- 5.22 The council must comply with the Health Privacy Principles prescribed under the *Health Records and Information Privacy Act 2002* when collecting, holding, using and disclosing health information in connection with a request by a councillor to attend a meeting by audio-visual link.
- 5.23 A councillor who has requested approval to attend a meeting of the council or a committee of the council by audio-visual link may participate in the meeting by audio-visual link until the council or committee determines whether to approve their request and is to be taken as present at the meeting. The councillor may participate in a decision in relation to their request to attend the meeting by audio-visual link.
- 5.24 A decision whether to approve a request by a councillor to attend a meeting of the council or a committee of the council by audio-visual link must be made by a resolution of the council or the committee concerned. The resolution must state:

- (a) the meetings the resolution applies to, and
- (b) the reason why the councillor is being permitted to attend the meetings by audio-visual link where it is on grounds other than illness, disability, or caring responsibilities.

## Attendance by councillors at meetings by audio-visual link

- 5.19 Councillors may attend and participate in meetings of the council and committees of the council by audio-visual link with the approval of the council or the relevant committee.
- 5.20 A request by a councillor for approval to attend a meeting by audio-visual link must be made in writing to the general manager prior to the meeting in question and must provide reasons why the councillor will be prevented from attending the meeting in person.
- 5.21 Councillors may request approval to attend more than one meeting by audio-visual link. Where a councillor requests approval to attend more than one meeting by audio-visual link, the request must specify the meetings the request relates to in addition to the information required under clause 5.20.
- 5.25 If the council or committee refuses a councillor's request to attend a meeting by audio-visual link, their link to the meeting is to be terminated.
- 5.26 A decision whether to approve a councillor's request to attend a meeting by audio-visual link is at the council's or the relevant committee's discretion. The council and committees of the council must act reasonably when considering requests by councillors to attend meetings by audio-visual link. However, the council and committees of the council are under no obligation to approve a councillor's request to attend a meeting by audio-

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visual link where the technical capacity does not exist to allow the councillor to attend the meeting by these means.

- 5.27 The council and committees of the council may refuse a councillor's request to attend a meeting by audio-visual link where the council or committee is satisfied that the councillor has failed to appropriately declare and manage conflicts of interest, observe confidentiality, or to comply with this code on one or more previous occasions they have attended a meeting of the council or a committee of the council by audio-visual link.
- 5.28 This code applies to a councillor attending a meeting by audio-visual link in the same way it would if the councillor was attending the meeting in person. Where a councillor is permitted to attend a meeting by audio-visual link under this code, they are to be taken as attending the meeting in person for the purposes of the code and will have the same voting rights as if they were attending the meeting in person.
- 5.29 A councillor must give their full attention to the business and proceedings of the meeting when attending a meeting by audio-visual link. The councillor's camera must be on at all times during the meeting except as may be otherwise provided for under this code.
- 5.30 A councillor must be appropriately dressed when attending a meeting by audio-visual link and must ensure that no items are within sight of the meeting that are inconsistent with the maintenance of order at the meeting or that are likely to bring the council or the committee into disrepute.

## Entitlement of the public to attend council meetings

- 5.31 Everyone is entitled to attend a meeting of the council and committees of the council. The council must ensure that all meetings of the council and committees of the council are open to the public.

**Note: Clause 5.31 reflects section 10(1) of the Act.**

- 5.32 Clause 5.31 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.
- 5.33 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:
- (a) by a resolution of the meeting, or
  - (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

**Note: Clause 5.33 reflects section 10(2) of the Act.**

**Note: If adopted, clauses 15.14 and 15.15 confer a standing authorisation on all chairpersons of meetings of the council and committees of the council to expel persons from meetings. If adopted, clause 15.14 authorises chairpersons to expel any person, including a councillor, from a council or committee meeting. Alternatively, if adopted, clause 15.15 authorises chairpersons to expel persons other than councillors from a council or committee meeting.**

## Webcasting of meetings

- 5.34 Each meeting of the council or a committee of the council is to be recorded by means of an audio or audio-visual device.
- 5.35 At the start of each meeting of the council or a committee of the council, the chairperson must inform the persons attending the meeting that:
- (a) the meeting is being recorded and made publicly available on the council's website, and
  - (b) persons attending the meeting should refrain from making any defamatory statements.
- 5.36 The recording of a meeting is to be made publicly available on the council's website:
- (a) at the same time as the meeting is taking place, or
  - (b) as soon as practicable after the meeting.
- 5.37 The recording of a meeting is to be made publicly available on the council's website for at least 12 months after the meeting.
- 5.38 Clauses 5.36 and 5.37 do not apply to any part of a meeting that has been closed to the public in accordance with section 10A of the Act.

**Note: Clauses 5.34 – 5.38 reflect section 236 of the Regulation.**

- 5.39 Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

**Note: Joint organisations are not required to webcast meetings but may choose to do so by adopting clauses 5.34–5.39. Joint organisations that choose not to webcast meetings may omit clauses 5.34–5.39.**

## Attendance of the general manager and other staff at meetings

- 5.40 The general manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all of the members are councillors.

**Note: Clause 5.40 reflects section 376(1) of the Act.**

- 5.41 The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.

**Note: Clause 5.41 reflects section 376(2) of the Act.**

- 5.42 The general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of employment of the general manager.

**Note: Clause 5.42 reflects section 376(3) of the Act.**

- 5.43 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the general manager.
- 5.44 The general manager and other council staff may attend meetings of the council and committees of the council by audio-visual link. Attendance by council staff at meetings by audio-visual link (other than as members of the public) shall be with the approval of the general manager.

## 6 The Chairperson



## The chairperson at meetings

- 6.1 The mayor, or at the request of or in the absence of the mayor, the deputy mayor (if any) presides at meetings of the council.

**Note: Clause 6.1 reflects section 369(1) of the Act.**

- 6.2 If the mayor and the deputy mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

**Note: Clause 6.2 reflects section 369(2) of the Act.**

## Election of the chairperson in the absence of the mayor and deputy mayor

- 6.3 If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.

- 6.4 The election of a chairperson must be conducted:

- (a) by the general manager or, in their absence, an employee of the council designated by the general manager to conduct the election, or
- (b) by the person who called the meeting or a person acting on their behalf if neither the general manager nor a designated employee is present at the meeting, or if there is no general manager or designated employee.

- 6.5 If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.

- 6.6 For the purposes of clause 6.5, the person conducting the election must:

- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
- (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.

- 6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

- 6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

## Chairperson to have precedence

- 6.9 When the chairperson rises or speaks during a meeting of the council:

- (a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
- (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

## 7 Modes of Address

- 7.1 If the chairperson is the mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.
- 7.2 Where the chairperson is not the mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.
- 7.3 A councillor is to be addressed as 'Councillor [surname]'.
- 7.4 A council officer is to be addressed by their official designation or as Mr/Ms [surname].

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## 8 Order of Business for Ordinary Council Meetings

8.1 At a meeting of the council, the general order of business is as fixed by resolution of the council.

8.2 The general order of business for an ordinary meeting of the council shall be:  
**[councils may adapt the following order of business to meet their needs]**

- 01 Opening meeting
- 02 Acknowledgement of country
- 03 Apologies and applications for a leave of absence or attendance by audio-visual link by councillors
- 04 Confirmation of minutes
- 05 Disclosures of interests
- 06 Mayoral minute(s)
- 07 Reports of committees
- 08 Reports to council
- 09 Notices of motions/Questions with notice
- 10 Confidential matters
- 11 Conclusion of the meeting

**Note: Councils must use either clause 8.1 or 8.2.**

8.3 The order of business as fixed under [8.1/8.2] **[delete whichever is not applicable]** may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

**Note: If adopted, Part 13 allows council to deal with items of business by exception.**

8.4 Despite clauses 10.20-10.30, only the mover of a motion referred to in clause 8.3 may speak to the motion before it is put.

## 9 Consideration of Business at Council Meetings



## Business that can be dealt with at a council meeting

- 9.1 The council must not consider business at a meeting of the council:
- (a) unless a councillor has given notice of the business, as required by clause 3.10, and
  - (b) unless notice of the business has been sent to the councillors in accordance with clause 3.7 in the case of an ordinary meeting or clause 3.9 in the case of an extraordinary meeting called in an emergency.
- 9.2 Clause 9.1 does not apply to the consideration of business at a meeting, if the business:
- (a) is already before, or directly relates to, a matter that is already before the council, or
  - (b) is the election of a chairperson to preside at the meeting, or
  - (c) subject to clause 9.9, is a matter or topic put to the meeting by way of a mayoral minute, or
  - (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.
- 9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:
- (a) a motion is passed to have the business considered at the meeting, and
  - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that

it requires a decision by the council before the next scheduled ordinary meeting of the council.

- 9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.
- 9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

## Mayoral minutes

- 9.6 Subject to clause 9.9, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.
- 9.7 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.
- 9.8 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.
- 9.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.

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9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted.

answer a question put to them through the general manager at the direction of the general manager.

9.17 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to information. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.

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### Staff reports

9.11 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

9.18 Councillors must put questions directly, succinctly, respectfully and without argument.

9.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

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### Reports of committees of council

9.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.

9.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

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### Questions

9.14 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.10 and 3.14.

9.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.

9.16 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to



## 10 Rules of Debate

## Motions to be seconded

- 10.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

## Notices of motion

- 10.2 A councillor who has submitted a notice of motion under clause 3.10 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.3 If a councillor who has submitted a notice of motion under clause 3.10 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.
- 10.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:
- (a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or
  - (b) the chairperson may defer consideration of the motion until the next meeting of the council.

## Chairperson's duties with respect to motions

- 10.5 It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.
- 10.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.

- 10.7 Before ruling out of order a motion or an amendment to a motion under clause 10.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.

- 10.8 Any motion, amendment, or other matter that the chairperson has ruled out of order is taken to have been lost.

## Motions requiring the expenditure of funds

- 10.9 A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. If the motion does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the motion if adopted.

## Amendments to motions

- 10.10 An amendment to a motion must be moved and seconded before it can be debated.
- 10.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.
- 10.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.

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- 10.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.
- 10.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 10.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 10.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

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### Foreshadowed motions

- 10.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.
- 10.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.

- 10.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.

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### Limitations on the number and duration of speeches

- 10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.
- 10.21 A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- 10.22 A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time.
- 10.23 Despite clause 10.22, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 10.24 Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.



10.25 Despite clauses 10.20 and 10.21, a councillor may move that a motion or an amendment be now put:

- (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
- (b) if at least two (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.

10.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 10.25. A seconder is not required for such a motion.

10.27 If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under clause 10.20.

10.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.

10.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.

10.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.

## Participation by non-voting representatives in joint organisation board meetings

10.31 Non-voting representatives of joint organisation boards may speak on but must not move, second or vote on any motion or an amendment to a motion.

**Note:** Under section 400T(1)(c) of the Act, non-voting representatives of joint organisation boards may attend but are not entitled to vote at a meeting of the board.

**Note:** Joint organisations must adopt clause 10.31. Councils must not adopt clause 10.31.

## 11 Voting

## Voting entitlements of councillors

- 11.1 Each councillor is entitled to one (1) vote.

**Note: Clause 11.1 reflects section 370(1) of the Act.**

**Note: Under section 400T(1) of the Act, voting representatives of joint organisation boards are entitled to one (1) vote each at meetings of the board.**

- 11.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.

**Note: Clause 11.2 reflects section 370(2) of the Act.**

- 11.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

- 11.4 A motion at a meeting of the board of a joint organisation is taken to be lost in the event of an equality of votes.

**Note: Clause 11.4 reflects section 397E of the Regulation. Joint organisations must adopt clause 11.4 and omit clauses 11.2 and 11.3. Councils must not adopt clause 11.4.**

**Note: Under section 400U(4) of the Act, joint organisations may specify more stringent voting requirements for decisions by the board such as a 75% majority or consensus decision making. Where a joint organisation's charter specifies more stringent voting requirements, clause 11.4 must be adapted to reflect those requirements.**

## Voting at council meetings

- 11.5 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion

- 11.6 If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.

- 11.7 The decision of the chairperson as to the result of a vote is final unless the decision is immediately challenged and not fewer than two (2) councillors rise and call for a division.

- 11.8 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the council's minutes for the meeting.

- 11.9 When a division on a motion is called, any councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.5 of this code.

- 11.10 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

- 11.11 All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

**Note: If clause 11.11 is adopted, clauses 11.6 – 11.9 and clause 11.13 may be omitted.**

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## Voting on planning decisions

- 11.12 The general manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- 11.13 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- 11.14 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.
- 11.15 Clauses 11.12–11.14 apply also to meetings that are closed to the public.

**Note: Clauses 11.12–11.15 reflect section 375A of the Act.**

**Note: The requirements of clause 11.12 may be satisfied by maintaining a register of the minutes of each planning decision.**



## 12 Committee of the Whole



- 12.1 The council may resolve itself into a committee to consider any matter before the council.

**Note: Clause 12.1 reflects section 373 of the Act.**

- 12.2 All the provisions of this code relating to meetings of the council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provisions limiting the number and duration of speeches.

**Note: Clauses 10.20–10.30 limit the number and duration of speeches.**

- 12.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full, but any recommendations of the committee must be reported.
- 12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

## 13 Dealing with Items by Exception

- 13.1 The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution.
- 13.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.
- 13.3 The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.
- 13.4 Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.3.
- 13.5 A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.
- 13.6 Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.
- 13.7 Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 13.1 in accordance with the requirements of the council's code of conduct.

## 14 Closure of Council Meetings to the Public

## Grounds on which meetings can be closed to the public

14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:

- (a) personnel matters concerning particular individuals (other than councillors),
- (b) the personal hardship of any resident or ratepayer,
- (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
- (d) commercial information of a confidential nature that would, if disclosed:
  - (i) prejudice the commercial position of the person who supplied it, or
  - (ii) confer a commercial advantage on a competitor of the council, or
  - (iii) reveal a trade secret,
- (e) information that would, if disclosed, prejudice the maintenance of law,
- (f) matters affecting the security of the council, councillors, council staff or council property,
- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,

- (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
- (i) alleged contraventions of the council's code of conduct.

**Note: Clause 14.1 reflects section 10A(1) and (2) of the Act.**

14.2 The council or a committee of the council may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

**Note: Clause 14.2 reflects section 10A(3) of the Act.**

## Matters to be considered when closing meetings to the public

14.3 A meeting is not to remain closed during the discussion of anything referred to in clause 14.1:

- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
- (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

**Note: Clause 14.3 reflects section 10B(1) of the Act.**

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14.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 14.1(g) unless the advice concerns legal matters that:

- (a) are substantial issues relating to a matter in which the council or committee is involved, and
- (b) are clearly identified in the advice, and
- (c) are fully discussed in that advice.

**Note: Clause 14.4 reflects section 10B(2) of the Act.**

14.5 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in clause 14.2), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in clause 14.1.

**Note: Clause 14.5 reflects section 10B(3) of the Act.**

14.6 For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:

- (a) a person may misinterpret or misunderstand the discussion, or
- (b) the discussion of the matter may:
  - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
  - (ii) cause a loss of confidence in the council or committee.

**Note: Clause 14.6 reflects section 10B(4) of the Act.**

14.7 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the Departmental Chief Executive of the Office of Local Government.

**Note: Clause 14.7 reflects section 10B(5) of the Act.**

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## Notice of likelihood of closure not required in urgent cases

14.8 Part of a meeting of the council, or of a committee of the council, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed, but only if:

- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 14.1, and
- (b) the council or committee, after considering any representations made under clause 14.9, resolves that further discussion of the matter:
  - (i) should not be deferred (because of the urgency of the matter), and
  - (ii) should take place in a part of the meeting that is closed to the public.

**Note: Clause 14.8 reflects section 10C of the Act.**



## Representations by members of the public

- 14.9 The council, or a committee of the council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

**Note: Clause 14.9 reflects section 10A(4) of the Act.**

- 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by **[date and time to be specified by the council]** before the meeting at which the matter is to be considered.
- 14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 14.13 No more than **[number to be specified by the council]** speakers are to be permitted to make representations under clause 14.9.
- 14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the

persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council.

- 14.15 The general manager (or their delegate) is to determine the order of speakers.
- 14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than **[number to be specified by the council]** speakers to make representations in such order as determined by the chairperson.
- 14.17 Each speaker will be allowed **[number to be specified by the council]** minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

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## Expulsion of non-councillors from meetings closed to the public

- 14.18 If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a councillor and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.
- 14.19 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.

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## Obligations of councillors attending meetings by audio-visual link

- 14.20 Councillors attending a meeting by audio-visual link must ensure that no other person is within sight or hearing of the meeting at any time that the meeting is closed to the public under section 10A of the Act.

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## Information to be disclosed in resolutions closing meetings to the public

- 14.21 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting. The grounds must specify the following:
- (a) the relevant provision of section 10A(2) of the Act,
  - (b) the matter that is to be discussed during the closed part of the meeting,
  - (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

**Note:** Clause 14.21 reflects section 10D of the Act.

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## **Resolutions passed at closed meetings to be made public**

- 14.22 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.
- 14.23 Resolutions passed during a meeting, or a part of a meeting, that is closed to the public must be made public by the chairperson under clause 14.22 during a part of the meeting that is webcast.
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## 15 Keeping Order at Meetings

## Points of order

- 15.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.
- 15.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.
- 15.3 A point of order must be taken immediately it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

## Questions of order

- 15.4 The chairperson, without the intervention of any other councillor, may call any councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- 15.5 A councillor who claims that another councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- 15.6 The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the council.
- 15.7 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

## Motions of dissent

- 15.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 15.9 If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 15.10 Despite any other provision of this code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

## Acts of disorder

- 15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:
  - (a) contravenes the Act, the Regulation or this code, or
  - (b) assaults or threatens to assault another councillor or person present at the meeting, or
  - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or

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- (d) insults, makes unfavourable personal remarks about, or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
- (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.

**Note: Clause 15.11 reflects section 182 of the Regulation.**

15.12 The chairperson may require a councillor:

- (a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a), (b), or (e), or
- (b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or
- (c) to retract and apologise without reservation for any statement that constitutes an act of disorder referred to in clauses 15.11(d) and (e).

**Note: Clause 15.12 reflects section 233 of the Regulation.**

## How disorder at a meeting may be dealt with

15.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

## Expulsion from meetings

15.14 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person, including any councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act.

15.15 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of the council or the committee of the council.

**Note: Councils may use either clause 15.14 or clause 15.15.**

15.16 Clause [15.14/15.15] **[delete whichever is not applicable]**, does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.

15.17 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

**Note: Clause 15.17 reflects section 233(2) of the Regulation.**

15.18 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.



15.19 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.

15.20 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

### How disorder by councillors attending meetings by audio-visual link may be dealt with

15.21 Where a councillor is attending a meeting by audio-visual link, the chairperson or a person authorised by the chairperson may mute the councillor's audio link to the meeting for the purposes of enforcing compliance with this code.

15.22 If a councillor attending a meeting by audio-visual link is expelled from a meeting for an act of disorder, the chairperson of the meeting or a person authorised by the chairperson, may terminate the councillor's audio-visual link to the meeting.

### Use of mobile phones and the unauthorised recording of meetings

15.23 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.

15.24 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.

15.25 Without limiting clause 15.18, a contravention of clause 15.24 or an attempt to contravene that clause, constitutes disorderly conduct for the purposes of clause 15.18. Any person who contravenes or attempts to contravene clause 15.24, may be expelled from the meeting as provided for under section 10(2) of the Act.

15.26 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

## 16 Conflicts of Interest

- 16.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the council and committees of the council in accordance with the council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the meeting at which the declaration was made.
- 16.2 Councillors attending a meeting by audio-visual link must declare and manage any conflicts of interest they may have in matters being considered at the meeting in accordance with the council's code of conduct. Where a councillor has declared a pecuniary or significant non-pecuniary conflict of interest in a matter being discussed at the meeting, the councillor's audio-visual link to the meeting must be suspended or terminated and the councillor must not be in sight or hearing of the meeting at any time during which the matter is being considered or discussed by the council or committee, or at any time during which the council or committee is voting on the matter.

## 17 Decisions of the Council

## Council decisions

- 17.1 A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

**Note: Clause 17.1 reflects section 371 of the Act in the case of councils and section 400T(8) in the case of joint organisations.**

**Note: Under section 400U(4) of the Act, joint organisations may specify more stringent voting requirements for decisions by the board such as a 75% majority or consensus decision making. Where a joint organisation's charter specifies more stringent voting requirements, clause 17.1 must be adapted to reflect those requirements.**

- 17.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

## Rescinding or altering council decisions

- 17.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.10.

**Note: Clause 17.3 reflects section 372(1) of the Act.**

- 17.4 If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

**Note: Clause 17.4 reflects section 372(2) of the Act.**

- 17.5 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.10.

**Note: Clause 17.5 reflects section 372(3) of the Act.**

- 17.6 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.

**Note: Clause 17.6 reflects section 372(4) of the Act.**

- 17.7 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.

**Note: Clause 17.7 reflects section 372(5) of the Act.**

- 17.8 The provisions of clauses 17.5-17.7 concerning lost motions do not apply to motions of adjournment.

**Note: Clause 17.8 reflects section 372(7) of the Act.**

- 17.9 A notice of motion submitted in accordance with clause 17.6 may only be withdrawn under clause 3.11 with the consent of all signatories to the notice of motion.

- 17.10 A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager no later than [council to specify the period of time] after the meeting at which the resolution was adopted.

- 17.11 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.

**Note: Clause 17.11 reflects section 372(6) of the Act.**

Model Code of Meeting Practice for Local Councils in NSW

17.12 Subject to clause 17.7, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:

- (a) a notice of motion signed by three councillors is submitted to the chairperson, and
- (b) a motion to have the motion considered at the meeting is passed, and
- (c) the chairperson rules the business that is the subject of the motion is of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

17.13 A motion moved under clause 17.12(b) can be moved without notice. Despite clauses 10.20-10.30, only the mover of a motion referred to in clause 17.12(b) can speak to the motion before it is put.

17.14 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.12(c).

---

## Recommitting resolutions to correct an error

17.15 Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:

- (a) to correct any error, ambiguity or imprecision in the council's resolution, or
- (b) to confirm the voting on the resolution.

17.16 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.15(a), the councillor is to propose alternative wording for the resolution.

17.17 The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.15(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.

17.18 A motion moved under clause 17.15 can be moved without notice. Despite clauses 10.20-10.30, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.

17.19 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.15.

17.20 A motion moved under clause 17.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.





## 18 Time Limits on Council Meetings

- 18.1 Meetings of the council and committees of the council are to conclude no later than **[council to specify the time]**.
- 18.2 If the business of the meeting is unfinished at **[council to specify the time]**, the council or the committee may, by resolution, extend the time of the meeting.
- 18.3 If the business of the meeting is unfinished at **[council to specify the time]**, and the council does not resolve to extend the meeting, the chairperson must either:
- (a) defer consideration of the remaining items of business on the agenda to the next ordinary meeting of the council, or
  - (b) adjourn the meeting to a time, date and place fixed by the chairperson.
- 18.4 Clause 18.3 does not limit the ability of the council or a committee of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.
- 18.5 Where a meeting is adjourned under clause 18.3 or 18.4, the general manager must:
- (a) individually notify each councillor of the time, date and place at which the meeting will reconvene, and
  - (b) publish the time, date and place at which the meeting will reconvene on the council's website and in such other manner that the general manager is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

## 19 After the Meeting

## Minutes of meetings

- 19.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.

**Note: Clause 19.1 reflects section 375(1) of the Act.**

- 19.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:

- (a) the names of councillors attending a council meeting and whether they attended the meeting in person or by audio-visual link,
- (b) details of each motion moved at a council meeting and of any amendments moved to it,
- (c) the names of the mover and seconder of the motion or amendment,
- (d) whether the motion or amendment was passed or lost, and
- (e) such other matters specifically required under this code.

- 19.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.

**Note: Clause 19.3 reflects section 375(2) of the Act.**

- 19.4 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

- 19.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting.

**Note: Clause 19.5 reflects section 375(2) of the Act.**

- 19.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been

confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

- 19.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.

## Access to correspondence and reports laid on the table at, or submitted to, a meeting

- 19.8 The council and committees of the council must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.

**Note: Clause 19.8 reflects section 11(1) of the Act.**

- 19.9 Clause 19.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

**Note: Clause 19.9 reflects section 11(2) of the Act.**

- 19.10 Clause 19.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

**Note: Clause 19.10 reflects section 11(3) of the Act.**

Model Code of Meeting Practice for Local Councils in NSW

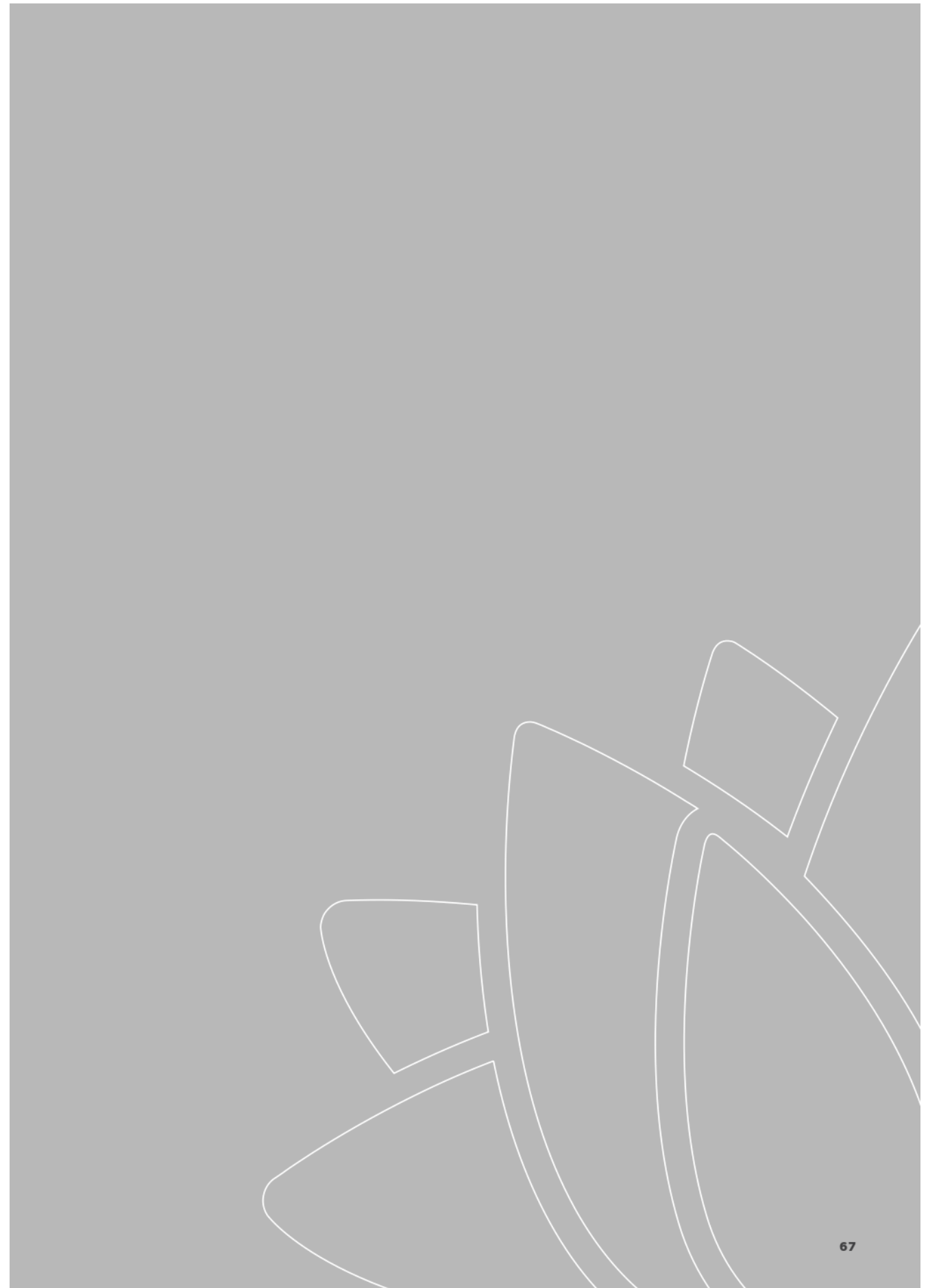
- 19.11 Correspondence or reports to which clauses 19.9 and 19.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

---

## Implementation of decisions of the council

- 19.12 The general manager is to implement, without undue delay, lawful decisions of the council.

**Note: Clause 19.12 reflects section 335(b) of the Act.**



## 20 Council Committees



## Application of this Part

- 20.1 This Part only applies to committees of the council whose members are all councillors.

## Council committees whose members are all councillors

- 20.2 The council may, by resolution, establish such committees as it considers necessary.
- 20.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.
- 20.4 The quorum for a meeting of a committee of the council is to be:
- (a) such number of members as the council decides, or
  - (b) if the council has not decided a number – a majority of the members of the committee.

## Functions of committees

- 20.5 The council must specify the functions of each of its committees when the committee is established but may from time to time amend those functions.

## Notice of committee meetings

- 20.6 The general manager must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:
- (a) the time, date and place of the meeting, and
  - (b) the business proposed to be considered at the meeting.

- 20.7 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

## Attendance at committee meetings

- 20.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:
- (a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
  - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- 20.9 Clause 20.8 does not apply if all of the members of the council are members of the committee.

## Non-members entitled to attend committee meetings

- 20.10 A councillor who is not a member of a committee of the council is entitled to attend, and to speak at a meeting of the committee. However, the councillor is not entitled:
- (a) to give notice of business for inclusion in the agenda for the meeting, or
  - (b) to move or second a motion at the meeting, or
  - (c) to vote at the meeting.

## Chairperson and deputy chairperson of council committees

- 20.11 The chairperson of each committee of the council must be:
- (a) the mayor, or
  - (b) if the mayor does not wish to be the chairperson of a committee, a member of the committee elected by the council, or
  - (c) if the council does not elect such a member, a member of the committee elected by the committee.
- 20.12 The council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
- 20.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.
- 20.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

## Procedure in committee meetings

- 20.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.
- 20.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 20.15.
- 20.17 A motion at a committee of a joint organisation is taken to be lost in the event of an equality of votes.
- Note: Clause 20.17 reflects section 397E of the Regulation. Joint organisations must adopt clause 20.17 and omit clause 20.16. Councils must not adopt clause 20.17.**
- 20.18 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

## Closure of committee meetings to the public

20.19 The provisions of the Act and Part 14 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.

20.20 If a committee of the council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting that is closed to the public, the chairperson must make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.

20.21 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 20.20 during a part of the meeting that is webcast.

## Disorder in committee meetings

20.22 The provisions of the Act and this code relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

## Minutes of council committee meetings

20.23 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:

- (a) the names of councillors attending a meeting and whether they attended the meeting in person or by audio-visual link,
- (b) details of each motion moved at a meeting and of any amendments moved to it,
- (c) the names of the mover and seconder of the motion or amendment,
- (d) whether the motion or amendment was passed or lost, and
- (e) such other matters specifically required under this code.

20.24 All voting at meetings of committees of the council (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

20.25 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.

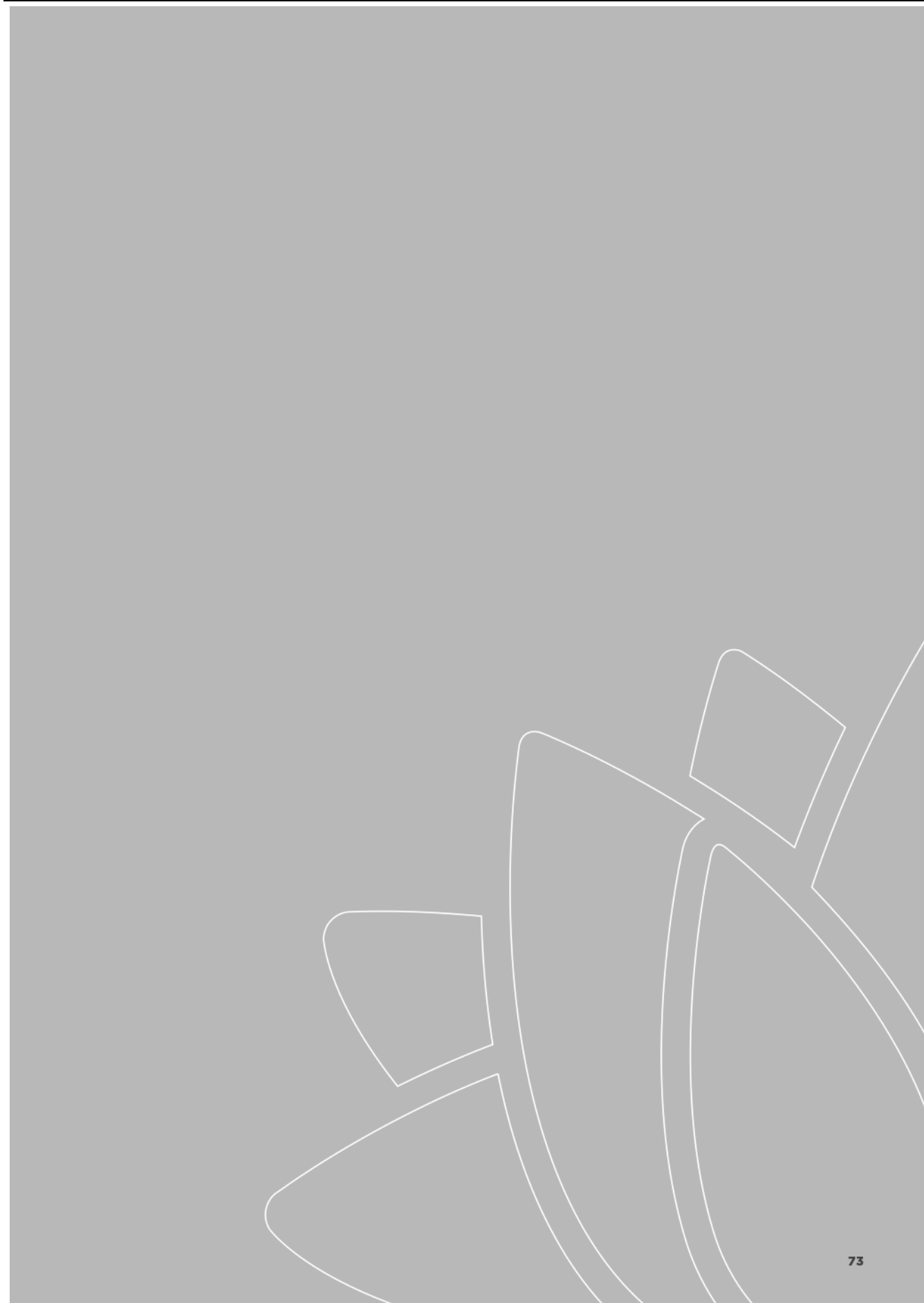
20.26 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

20.27 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.

Model Code of Meeting Practice for Local Councils in NSW

20.28 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

20.29 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.



## 21 Irregularities

- 21.1 Proceedings at a meeting of a council or a council committee are not invalidated because of:
- (a) a vacancy in a civic office, or
  - (b) a failure to give notice of the meeting to any councillor or committee member, or
  - (c) any defect in the election or appointment of a councillor or committee member, or
  - (d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or
  - (e) a failure to comply with this code.

**Note: Clause 21.1 reflects section 374 of the Act.**

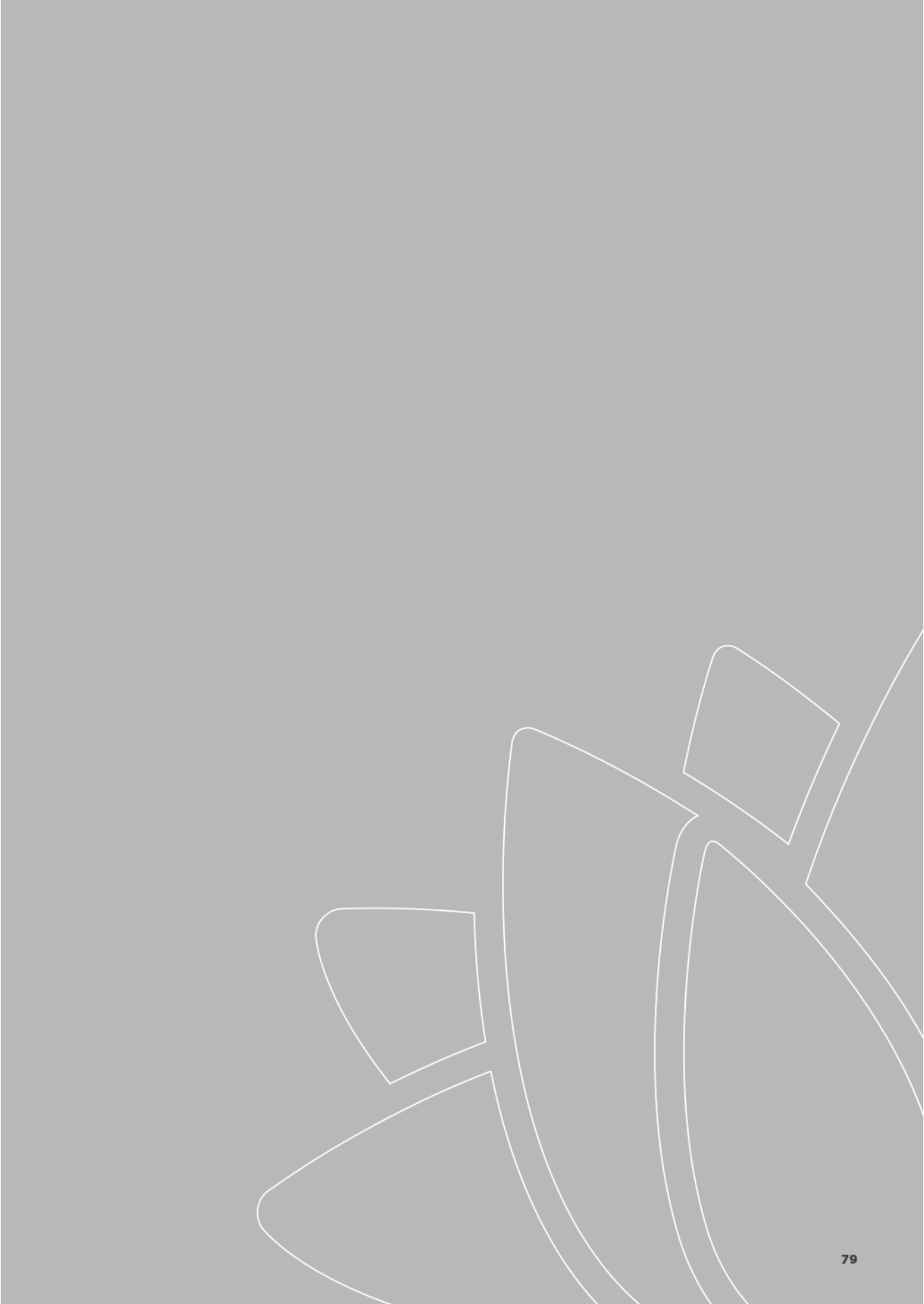


## 22 Definitions

<b>the Act</b>	means the <i>Local Government Act 1993</i>
<b>act of disorder</b>	means an act of disorder as defined in clause 15.11 of this code
<b>amendment</b>	in relation to an original motion, means a motion moving an amendment to that motion
<b>audio recorder</b>	any device capable of recording speech
<b>audio-visual link</b>	means a facility that enables audio and visual communication between persons at different places
<b>business day</b>	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales
<b>chairperson</b>	in relation to a meeting of the council - means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and  in relation to a meeting of a committee - means the person presiding at the meeting as provided by clause 20.11 of this code
<b>this code</b>	means the council's adopted code of meeting practice
<b>committee of the council</b>	means a committee established by the council in accordance with clause 20.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1
<b>council official</b>	has the same meaning it has in the <i>Model Code of Conduct for Local Councils in NSW</i>
<b>day</b>	means calendar day
<b>division</b>	means a request by two councillors under clause 11.7 of this code requiring the recording of the names of the councillors who voted both for and against a motion
<b>foreshadowed amendment</b>	means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment
<b>foreshadowed motion</b>	means a motion foreshadowed by a councillor under clause 10.17 of this code during debate on an original motion
<b>open voting</b>	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
<b>planning decision</b>	means a decision made in the exercise of a function of a council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act

Model Code of Meeting Practice for Local Councils in NSW

<b>performance improvement order</b>	means an order issued under section 438A of the Act
<b>quorum</b>	means the minimum number of councillors or committee members necessary to conduct a meeting
<b>the Regulation</b>	means the <i>Local Government (General) Regulation 2021</i>
<b>webcast</b>	a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time
<b>year</b>	means the period beginning 1 July and ending the following 30 June





# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.7 CODE OF MEETING PRACTICE

ATTACHMENT 3 OLG CIRCULAR 21-35 OF 29 OCTOBER 2021



Office of  
Local Government

## Circular to Councils

<b>Circular Details</b>	21-35 / 29 October 2021 / A796782
<b>Previous Circular</b>	21-02 <i>Temporary exemption from the requirement for councillors to attend meetings in person</i>
<b>Who should read this</b>	Mayors / Councillors / General Managers / Joint Organisation Executive Officers / Council governance staff
<b>Contact</b>	Council Governance Team / 02 4428 4100 / <a href="mailto:olg@olg.nsw.gov.au">olg@olg.nsw.gov.au</a>
<b>Action required</b>	Council to Implement

### 2021 Model Code of Meeting Practice for Local Councils in NSW

#### What's new or changing

- Following extensive consultation, the new *Model Code of Meeting Practice for Local Councils in NSW* (Model Meeting Code) has been finalised.
- The new Model Meeting Code has been published in the Government Gazette and is expected to be prescribed under the *Local Government (General) Regulation 2021* (the Regulation) on or before **Friday 19 November 2021**. The new Model Meeting Code is available on the Office of Local Government's (OLG) website [here](#).
- The new Model Meeting Code contains new provisions that allow councils to permit individual councillors to attend meetings by audio-visual link and to hold meetings by audio-visual link in the event of natural disasters or public health emergencies. The provisions governing attendance at meetings by audio-visual link are non-mandatory. Councils can choose not to adopt them or to adapt them to meet their own needs.
- Amendments have also been made to the provisions governing the webcasting of meetings and disorder at meetings to reflect amendments to the Regulation since the previous iteration of the Model Meeting Code was prescribed.
- An amendment has also been made to the Model Meeting Code implementing recommendation 6 in ICAC's report in relation to its investigation of the former Canterbury City Council (Operation Dasha). ICAC recommended that the Model Meeting Code be amended to require that council business papers include a reminder to councillors of their oath or affirmation of office, and their conflict of interest disclosure obligations.
- A Word version of the new Model Meeting Code is available on OLG's website showing the amendments in track changes.
- The repeal date for section 237 of the Regulation which exempts councils from the requirement under clause 5.2 of the previous iteration of the Model Meeting Code for councillors to be personally present at meetings in order to participate in them has been extended to **30 June 2022**. This is to allow councils additional time to exhibit and adopt new codes of meeting practice containing provisions allowing attendance by audio-visual link at meetings. If councils have not adopted a new meeting code that allows councillors to attend meetings by audio-visual link, they will not be permitted to do so after that date.

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### What this will mean for your council

- Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code within 12 months of the local government elections. A council's adopted meeting code must not contain provisions that are inconsistent with the mandatory provisions.
- A council's adopted meeting code may also incorporate the non-mandatory provisions of the Model Meeting Code and any other supplementary provisions adopted by the council.
- Councils and committees of councils of which all the members are councillors must conduct their meetings in accordance with the code of meeting practice adopted by the council.
- Under section 361 of the *Local Government Act 1993*, before adopting a new code of meeting practice, councils must first exhibit a draft of the code of meeting practice for at least 28 days and provide members of the community at least 42 days in which to comment on the draft code. This requirement does not apply to joint organisations.

### Key points

- The Model Meeting Code has two elements:
  - mandatory provisions (indicated in black font)
  - non-mandatory provisions (indicated in red font) covering areas of meeting practice that are common to most councils but where there may be a need for some variation in practice between councils based on local circumstances. The non-mandatory provisions also operate to set a benchmark based on what OLG sees as best practice for the relevant area of practice.
- The Model Meeting Code also applies to meetings of the boards of joint organisations and county councils. The provisions that are specific to meetings of boards of joint organisations are indicated in blue font.
- In adopting the Model Meeting Code, joint organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".
- In adopting the Model Meeting Code, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".

### Where to go for further information

- The new Model Meeting Code is available on OLG's website [here](#).
- For more information, contact the Council Governance Team by telephone on 02 4428 4100 or by email at [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au).



**William Power**  
**Acting Coordinator General, Planning Delivery and Local Government**

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# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.8 CODE OF CONDUCT

ATTACHMENT 1 MODEL CODE OF CONDUCT 2020

# Model Code of Conduct

for Local Councils  
in NSW

2020



## MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW

2020

### ACCESS TO SERVICES

The Office of Local Government is located at:

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Website: [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)

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# Part 1:

## Introduction

This *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct") is made under section 440 of the *Local Government Act 1993* ("LGA") and the *Local Government (General) Regulation 2005* ("the Regulation").

The Model Code of Conduct sets the minimum standards of conduct for council officials. It is prescribed by regulation to assist council officials to:

- understand and comply with the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in local government.

Section 440 of the LGA requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. A council's or joint organisation's adopted code of conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "council officials" for the purposes of the Model Code of Conduct (eg volunteers, contractors and members of wholly advisory committees).

A council's or joint organisation's adopted code of conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct. However, a council's or joint organisation's adopted code of conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct.

Councillors, administrators, members of staff of councils, delegates of councils, (including members of council committees that are delegates of a council) and any other person a council's adopted code of conduct applies to, must comply with the applicable provisions of their council's code of conduct. It is the personal responsibility of council officials to comply with the standards in the code and to regularly review their personal circumstances and conduct with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the LGA. The LGA provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office. A councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.

Failure by a member of staff to comply with a council's code of conduct may give rise to disciplinary action.

**Note:** References in the Model Code of Conduct to councils are also to be taken as references to county councils and joint organisations.

**Note:** In adopting the Model Code of Conduct, joint organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".

**Note:** In adopting the Model Code of Conduct, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".



## Part 2:

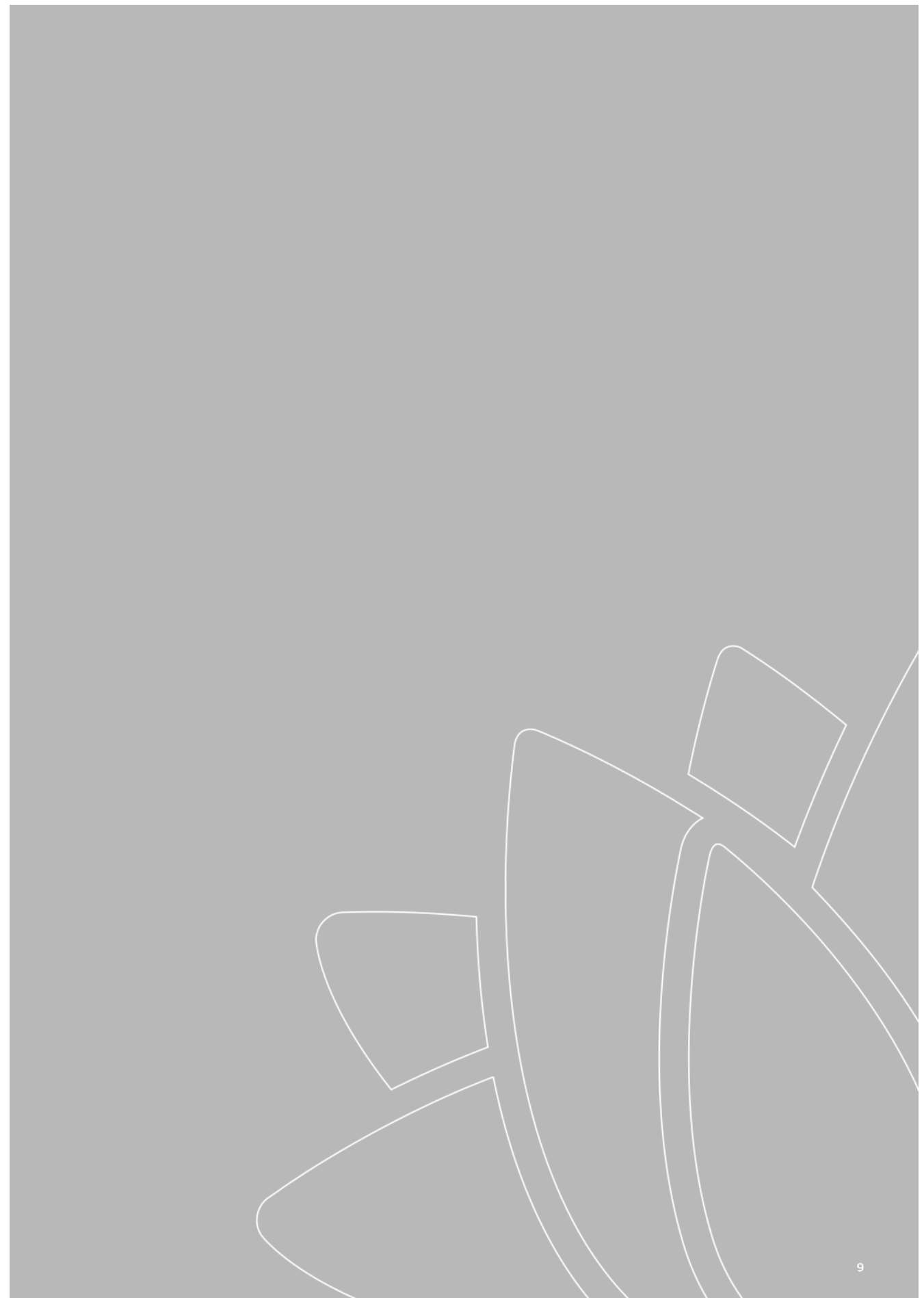
# Definitions

In this code the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
committee	see the definition of “council committee”
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures.
conduct	includes acts and omissions
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council’s audit, risk and improvement committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council’s audit, risk and improvement committee
council official	includes councillors, members of staff of a council, administrators, council committee members, delegates of council and, for the purposes of clause 4.16, council advisers
councillor	any person elected or appointed to civic office, including the mayor and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns
environmental planning instrument	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 400O of the LGA
LGA	<i>Local Government Act 1993</i>
local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
mayor	includes the chairperson of a county council or a joint organisation

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members of staff of a council	includes members of staff of county councils and joint organisations
the Office	Office of Local Government
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the <i>Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW</i> prescribed under the Regulation
the Regulation	the <i>Local Government (General) Regulation 2005</i>
voting representative	a voting representative of the board of a joint organisation
wholly advisory committee	a council committee that the council has not delegated any functions to



## Part 3:

# General Conduct Obligations

## General conduct

- 3.1 You must not conduct yourself in a manner that:
- a) is likely to bring the council or other council officials into disrepute
  - b) is contrary to statutory requirements or the council's administrative requirements or policies
  - c) is improper or unethical
  - d) is an abuse of power
  - e) causes, comprises or involves intimidation or verbal abuse
  - f) involves the misuse of your position to obtain a private benefit
  - g) constitutes harassment or bullying behaviour under this code, or is unlawfully discriminatory.
- 3.2 You must act lawfully and honestly, and exercise a reasonable degree of care and diligence in carrying out your functions under the LGA or any other Act. (*section 439*).

## Fairness and equity

- 3.3 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.4 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.
- 3.5 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 3.3 or 3.4.

## Harassment and discrimination

- 3.6 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.
- 3.7 For the purposes of this code, "harassment" is any form of behaviour towards a person that:
- a) is not wanted by the person
  - b) offends, humiliates or intimidates the person, and
  - c) creates a hostile environment.

## Bullying

- 3.8 You must not engage in bullying behaviour towards others.
- 3.9 For the purposes of this code, "bullying behaviour" is any behaviour in which:
- a) a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons, and
  - b) the behaviour creates a risk to health and safety.
- 3.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- a) aggressive, threatening or intimidating conduct
  - b) belittling or humiliating comments

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- c) spreading malicious rumours
- d) teasing, practical jokes or 'initiation ceremonies'
- e) exclusion from work-related events
- f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- g) displaying offensive material
- h) pressure to behave in an inappropriate manner.

- 3.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:
- a) performance management processes
  - b) disciplinary action for misconduct
  - c) informing a worker about unsatisfactory work performance or inappropriate work behaviour
  - d) directing a worker to perform duties in keeping with their job
  - e) maintaining reasonable workplace goals and standards
  - f) legitimately exercising a regulatory function
  - g) legitimately implementing a council policy or administrative processes.

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## **Work health and safety**

- 3.12 All council officials, including councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WHS Act). You must comply with your duties under the WHS Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:

- a) take reasonable care for your own health and safety
- b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
- c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WHS Act and any policies or procedures adopted by the council to ensure workplace health and safety
- d) cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that has been notified to council staff
- e) report accidents, incidents, near misses, to the general manager or such other staff member nominated by the general manager, and take part in any incident investigations
- f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WHS Act in relation to the same matter.

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## **Land use planning, development assessment and other regulatory functions**

- 3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.



- 3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

### Binding caucus votes

- 3.15 You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 3.16 For the purposes of clause 3.15, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee, irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.
- 3.17 Clause 3.15 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting, or from voluntarily holding a shared view with other councillors on the merits of a matter.
- 3.18 Clause 3.15 does not apply to a decision to elect the mayor or deputy mayor, or to nominate a person to be a member of a council committee or a representative of the council on an external body.

### Obligations in relation to meetings

- 3.19 You must comply with rulings by the chair at council and committee meetings or other proceedings of the council unless a motion dissenting from the ruling is passed.
- 3.20 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other council officials or any members of the public present during council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).
- 3.21 You must not engage in conduct that disrupts council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.
- 3.22 If you are a councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the council, or of a committee of the council. Without limiting this clause, you must not:
- a) leave a meeting of the council or a committee for the purposes of depriving the meeting of a quorum, or
  - b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or
  - c) deliberately seek to impede the consideration of business at a meeting.

## Part 4:

# Pecuniary Interests

## What is a pecuniary interest?

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- (a) your interest, or
  - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
  - (c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- (a) Your "relative" is any of the following:
    - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - ii) your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
  - (b) "de facto partner" has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):
- (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
  - (b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
  - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

## What interests do not have to be disclosed?

- 4.6 You do not have to disclose the following interests for the purposes of this Part:
- (a) your interest as an elector
  - (b) your interest as a ratepayer or person liable to pay a charge
  - (c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this code
  - (d) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this code

- (e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
  - (f) if you are a council committee member, an interest you have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if you have been appointed to represent the organisation or group on the council committee
  - (g) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
  - (h) an interest you have arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
  - (i) an interest you have arising from the making by the council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
    - i) the performance by the council at the expense of your relative of any work or service in connection with roads or sanitation
    - ii) security for damage to footpaths or roads
    - iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council, or by or under any contract
  - (j) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor)
  - (k) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252 of the LGA,
  - (l) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor
  - (m) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
  - (n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or a council committee member
  - (o) an interest arising from the appointment of a councillor to a body as a representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.
- 4.7 For the purposes of clause 4.6, "relative" has the same meaning as in clause 4.4, but includes your spouse or de facto partner.

## What disclosures must be made by a designated person?

### 4.8 Designated persons include:

- (a) the general manager
- (b) other senior staff of the council for the purposes of section 332 of the LGA
- (c) a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
- (d) a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

### 4.9 A designated person:

- (a) must prepare and submit written returns of interests in accordance with clauses 4.21, and
- (b) must disclose pecuniary interests in accordance with clause 4.10.

4.10 A designated person must disclose in writing to the general manager (or if the person is the general manager, to the council) the nature of any pecuniary interest the person has in any council matter with which the person is dealing as soon as practicable after becoming aware of the interest.

4.11 Clause 4.10 does not require a designated person who is a member of staff of the council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.

4.12 The general manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.

4.13 A disclosure by the general manager must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and the council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

## What disclosures must be made by council staff other than designated persons?

4.14 A member of staff of council, other than a designated person, must disclose in writing to their manager or the general manager the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.

4.15 The staff member's manager or the general manager must, on receiving a disclosure under clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

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## What disclosures must be made by council advisers?

- 4.16 A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee, must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an adviser.
- 4.17 A person does not breach clause 4.16 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.

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## What disclosures must be made by a council committee member?

- 4.18 A council committee member must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29.
- 4.19 For the purposes of clause 4.18, a "council committee member" includes a member of staff of council who is a member of the committee.

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## What disclosures must be made by a councillor?

- 4.20 A councillor:
- (a) must prepare and submit written returns of interests in accordance with clause 4.21, and
  - (b) must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29 where it is applicable.

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## Disclosure of interests in written returns

- 4.21 A councillor or designated person must make and lodge with the general manager a return in the form set out in schedule 2 to this code, disclosing the councillor's or designated person's interests as specified in schedule 1 to this code within 3 months after:
- (a) becoming a councillor or designated person, and
  - (b) 30 June of each year, and
  - (c) the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).
- 4.22 A person need not make and lodge a return under clause 4.21, paragraphs (a) and (b) if:
- (a) they made and lodged a return under that clause in the preceding 3 months, or
  - (b) they have ceased to be a councillor or designated person in the preceding 3 months.



- 4.23 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 4.24 The general manager must keep a register of returns required to be made and lodged with the general manager.
- 4.25 Returns required to be lodged with the general manager under clause 4.21(a) and (b) must be tabled at the first meeting of the council after the last day the return is required to be lodged.
- 4.26 Returns required to be lodged with the general manager under clause 4.21(c) must be tabled at the next council meeting after the return is lodged.
- 4.27 Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.
- (b) at any time during which the council or committee is voting on any question in relation to the matter.
- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council committee member, or the councillor's or council committee member's spouse, de facto partner or relative, is:
- (a) a member of, or in the employment of, a specified company or other body, or
- (b) a partner of, or in the employment of, a specified person.

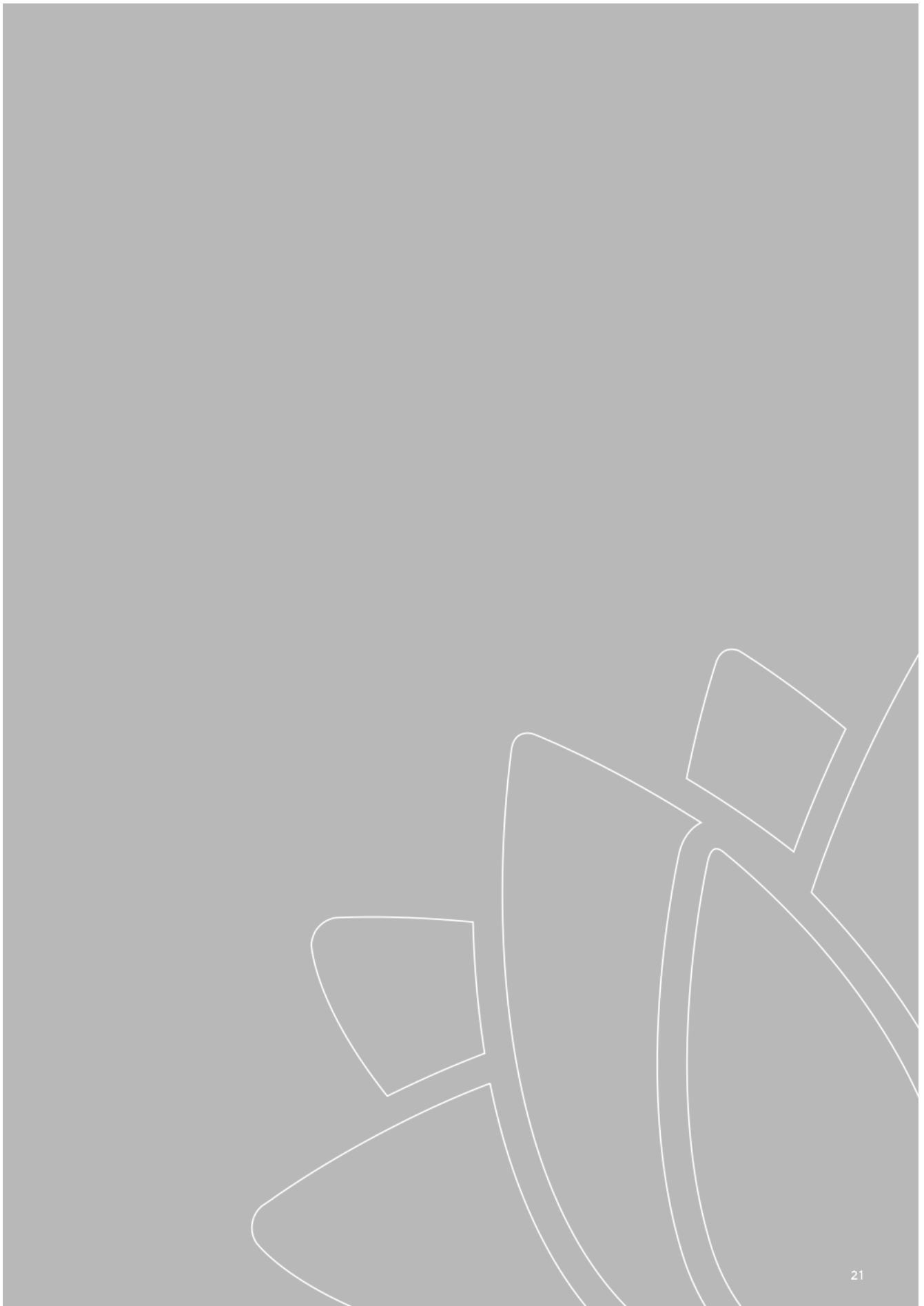
## Disclosure of pecuniary interests at meetings

- 4.28 A councillor or a council committee member 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.
- 4.29 The councillor or council committee 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
- Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the councillor's or council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.
- 4.33 A councillor or a council committee member is not prevented 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 council committee member has an interest in the matter of a kind referred to in clause 4.6.

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- 4.34 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.35 Despite clause 4.29, a councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.36 Clause 4.29 does not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- (a) the matter is a proposal relating to:
    - (i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
    - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
  - (b) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and
  - (c) the councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.
- 4.37 A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:
- (a) be in the form set out in schedule 3 of this code and contain the information required by that form, and
  - (b) be laid on the table at a meeting of the council as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.
- 4.38 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- (a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
  - (b) that it is in the interests of the electors for the area to do so.
- 4.39 A councillor or a council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.38, must still disclose the interest they have in the matter in accordance with clause 4.28.





## Part 5:

# Non-Pecuniary Conflicts of Interest

## What is a non-pecuniary conflict of interest?

- 5.1 Non-pecuniary interests are private or personal interests a council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 5.3 The personal or political views of a council official do not constitute a private interest for the purposes of clause 5.2.
- 5.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this code.
- 5.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

## Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the general manager, such a disclosure is to be made to the staff member's manager. In the case of the general manager, such a disclosure is to be made to the mayor.
- 5.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
  - a) a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household

- b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
  - c) an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
  - d) membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
  - e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
  - f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.
- 5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:
- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
  - b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.
- 5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.
- 5.12 If you are a member of staff of council other than the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the mayor.
- 5.13 Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.

5.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

## Political donations

5.15 Councillors should be aware that matters before council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.

5.16 Where you are a councillor and have received or knowingly benefitted from a reportable political donation:

- a) made by a major political donor in the previous four years, and
- b) the major political donor has a matter before council,

you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A disclosure made under this clause must be recorded in the minutes of the meeting.

5.17 For the purposes of this Part:

- a) a “reportable political donation” has the same meaning as it has in section 6 of the *Electoral Funding Act 2018*
- b) “major political donor” has the same meaning as it has in the *Electoral Funding Act 2018*.

5.18 Councillors should note that political donations that are not a “reportable political donation”, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of clause 5.9 and take the appropriate action to manage them.

5.19 Despite clause 5.16, a councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

## Loss of quorum as a result of compliance with this Part

5.20 A councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:

- a) the matter is a proposal relating to:
  - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
  - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and

- b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person's principal place of residence, and
  - c) the councillor discloses the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part in accordance with clause 5.6.
- 5.21 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
  - b) that it is in the interests of the electors for the area to do so.
- 5.22 Where the Minister exempts a councillor or committee member from complying with a requirement under this Part under clause 5.21, the councillor or committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

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## Other business or employment

- 5.23 The general manager must not engage, for remuneration, in private employment, contract work or other business outside the service of the council without the approval of the council.
- 5.24 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council or that might conflict with the staff member's council duties unless they have notified the general manager in writing of the employment, work or business and the general manager has given their written approval for the staff member to engage in the employment, work or business.
- 5.25 The general manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council, or that might conflict with the staff member's council duties.
- 5.26 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council if prohibited from doing so.
- 5.27 Members of staff must ensure that any outside employment, work or business they engage in will not:
- a) conflict with their official duties
  - b) involve using confidential information or council resources obtained through their work with the council including where private use is permitted

- c) require them to work while on council duty
- d) discredit or disadvantage the council
- e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

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## Personal dealings with council

- 5.28 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a development consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.
- 5.29 You must undertake any personal dealings you have with the council in a manner that is consistent with the way other members of the community deal with the council. You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this code.



## Part 6:

# Personal Benefit

- 6.1 For the purposes of this Part, a gift or a benefit is something offered to or received by a council official or someone personally associated with them for their personal use and enjoyment.
- 6.2 A reference to a gift or benefit in this Part does not include:
- a) items with a value of \$10 or less
  - b) a political donation for the purposes of the *Electoral Funding Act 2018*
  - c) a gift provided to the council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual council official or someone personally associated with them
  - d) a benefit or facility provided by the council to an employee or councillor
  - e) attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
  - f) free or subsidised meals, beverages or refreshments provided to council officials in conjunction with the performance of their official duties such as, but not limited to:
    - i) the discussion of official business
    - ii) work-related events such as council-sponsored or community events, training, education sessions or workshops
    - iii) conferences
    - iv) council functions or events
    - v) social functions organised by groups, such as council committees and community organisations.

## Gifts and benefits

- 6.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.
- 6.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.

## How are offers of gifts and benefits to be dealt with?

- 6.5 You must not:
- a) seek or accept a bribe or other improper inducement
  - b) seek gifts or benefits of any kind
  - c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
  - d) subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9
  - e) accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
  - f) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer-supplier relationship with the competition organiser
  - g) personally benefit from reward points programs when purchasing on behalf of the council.

6.6 Where you receive a gift or benefit of any value other than one referred to in clause 6.2, you must disclose this promptly to your manager or the general manager in writing. The recipient, manager, or general manager must ensure that, at a minimum, the following details are recorded in the council's gift register:

- a) the nature of the gift or benefit
- b) the estimated monetary value of the gift or benefit
- c) the name of the person who provided the gift or benefit, and
- d) the date on which the gift or benefit was received.

6.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical.

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## Gifts and benefits of token value

6.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$100. They include, but are not limited to:

- a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$100
- b) gifts of alcohol that do not exceed a value of \$100
- c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
- d) prizes or awards that do not exceed \$100 in value.

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## Gifts and benefits of more than token value

6.9 Gifts or benefits that exceed \$100 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) and, subject to clause 6.7, must not be accepted.

6.10 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$100, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.

6.11 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$100 in value.

6.12 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

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## **“Cash-like gifts”**

- 6.13 For the purposes of clause 6.5(e), “cash-like gifts” include, but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

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## **Improper and undue influence**

- 6.14 You must not use your position to influence other council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the proper exercise of their role as prescribed under the LGA.
- 6.15 You must not take advantage (or seek to take advantage) of your status or position with council, or of functions you perform for council, in order to obtain a private benefit for yourself or for any other person or body.

## Part 7:

# Relationships Between Council Officials

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## Obligations of councillors and administrators

- 7.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. Under section 223 of the LGA, the role of the governing body of the council includes the development and endorsement of the strategic plans, programs, strategies and policies of the council, including those relating to workforce policy, and to keep the performance of the council under review.
- 7.2 Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager by way of council or committee resolution, or by the mayor or administrator exercising their functions under section 226 of the LGA
  - b) in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the staff member or delegate
  - c) contact a member of the staff of the council on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
  - d) contact or issue instructions to any of the council's contractors, including the council's legal advisers, unless by the mayor or administrator exercising their functions under section 226 of the LGA.

- 7.3 Despite clause 7.2, councillors may contact the council's external auditor or the chair of the council's audit risk and improvement committee to provide information reasonably necessary for the external auditor or the audit, risk and improvement committee to effectively perform their functions.

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## Obligations of staff

- 7.4 Under section 335 of the LGA, the role of the general manager includes conducting the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council, implementing without undue delay, lawful decisions of the council and ensuring that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.
- 7.5 Members of staff of council must:
- a) give their attention to the business of the council while on duty
  - b) ensure that their work is carried out ethically, efficiently, economically and effectively
  - c) carry out reasonable and lawful directions given by any person having authority to give such directions
  - d) give effect to the lawful decisions, policies and procedures of the council, whether or not the staff member agrees with or approves of them
  - e) ensure that any participation in political activities outside the service of the council does not interfere with the performance of their official duties.

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## Inappropriate interactions

7.6 You must not engage in any of the following inappropriate interactions:

- a) councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- b) council staff approaching councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- c) subject to clause 8.6, council staff refusing to give information that is available to other councillors to a particular councillor
- d) councillors and administrators who have lodged an application with the council, discussing the matter with council staff in staff-only areas of the council
- e) councillors and administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the councillor or administrator has a right to be heard by the panel at the meeting
- f) councillors and administrators being overbearing or threatening to council staff
- g) council staff being overbearing or threatening to councillors or administrators
- h) councillors and administrators making personal attacks on council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media
- i) councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
- j) council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- k) council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
- l) councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's general manager or, in the case of the mayor or administrator, unless they are exercising their functions under section 226 of the LGA.





## Part 8:

# Access to Information and Council Resources

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## Councillor and administrator access to information

- 8.1 The general manager is responsible for ensuring that councillors and administrators can access information necessary for the performance of their official functions. The general manager and public officer are also responsible for ensuring that members of the public can access publicly available council information under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 8.2 The general manager must provide councillors and administrators with the information necessary to effectively discharge their official functions.
- 8.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to exercise their official functions and in accordance with council procedures.
- 8.4 Members of staff of council who provide any information to a particular councillor in the performance of their official functions must also make it available to any other councillor who requests it and in accordance with council procedures.
- 8.5 Councillors and administrators who have a private interest only in council information have the same rights of access as any member of the public.

- 8.6 Despite clause 8.4, councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public, or the council has determined to make the information available under the GIPA Act.

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## Councillors and administrators to properly examine and consider information

- 8.7 Councillors and administrators must ensure that they comply with their duty under section 439 of the LGA to act honestly and exercise a reasonable degree of care and diligence by properly examining and considering all the information provided to them relating to matters that they are required to make a decision on.

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## Refusal of access to information

- 8.8 Where the general manager or public officer determine to refuse access to information requested by a councillor or administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the councillor or administrator to perform their official functions (see clause 8.2) and whether they have disclosed a conflict of interest in the matter the information relates to that would preclude their participation in consideration of the matter (see clause 8.6). The general manager or public officer must state the reasons for the decision if access is refused.

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## Use of certain council information

- 8.9 In regard to information obtained in your capacity as a council official, you must:
- a) subject to clause 8.14, only access council information needed for council business
  - b) not use that council information for private purposes
  - c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your office or position with council
  - d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

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## Use and security of confidential information

- 8.10 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.
- 8.11 In addition to your general obligations relating to the use of council information, you must:
- a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
  - b) protect confidential information
  - c) only release confidential information if you have authority to do so
  - d) only use confidential information for the purpose for which it is intended to be used

- e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- f) not use confidential information with the intention to cause harm or detriment to the council or any other person or body
- g) not disclose any confidential information discussed during a confidential session of a council or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

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## Personal information

- 8.12 When dealing with personal information you must comply with:
- a) the *Privacy and Personal Information Protection Act 1998*
  - b) the *Health Records and Information Privacy Act 2002*
  - c) the Information Protection Principles and Health Privacy Principles
  - d) the council's privacy management plan
  - e) the Privacy Code of Practice for Local Government

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## Use of council resources

- 8.13 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.

8.14 Union delegates and consultative committee members may have reasonable access to council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:

- a) the representation of members with respect to disciplinary matters
- b) the representation of employees with respect to grievances and disputes
- c) functions associated with the role of the local consultative committee.

8.15 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.

8.16 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

8.17 You must not use council resources (including council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.

8.18 You must not use the council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material:

- a) for the purpose of assisting your election campaign or the election campaign of others, or
- b) for other non-official purposes.

8.19 You must not convert any property of the council to your own use unless properly authorised.

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## Internet access

8.20 You must not use council's computer resources or mobile or other devices to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, or that could otherwise lead to criminal penalty or civil liability and/or damage the council's reputation.

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## Council record keeping

8.21 You must comply with the requirements of the *State Records Act 1998* and the council's records management policy.

8.22 All information created, sent and received in your official capacity is a council record and must be managed in accordance with the requirements of the *State Records Act 1998* and the council's approved records management policies and practices.

8.23 All information stored in either soft or hard copy on council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the council and will be treated as council records, regardless of whether the original intention was to create the information for personal purposes.

8.24 You must not destroy, alter, or dispose of council information or records, unless authorised to do so. If you need to alter or dispose of council information or records, you must do so in consultation with the council's records manager and comply with the requirements of the *State Records Act 1998*.

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## Councillor access to council buildings

- 8.25 Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.
- 8.26 Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or their delegate) or as provided for in the procedures governing the interaction of councillors and council staff.
- 8.27 Councillors and administrators must ensure that when they are within a staff only area they refrain from conduct that could be perceived to improperly influence council staff decisions.





## Part 9:

# Maintaining the Integrity of this Code

## Complaints made for an improper purpose

- 9.1 You must not make or threaten to make a complaint or cause a complaint to be made alleging a breach of this code for an improper purpose.
- 9.2 For the purposes of clause 9.1, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- a) to bully, intimidate or harass another council official
  - b) to damage another council official's reputation
  - c) to obtain a political advantage
  - d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
  - e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
  - f) to avoid disciplinary action under the Procedures
  - g) to take reprisal action against a person for making a complaint alleging a breach of this code
  - h) to take reprisal action against a person for exercising a function prescribed under the Procedures
  - i) to prevent or disrupt the effective administration of this code under the Procedures.

## Detrimental action

- 9.3 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this code.
- 9.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under the Procedures.
- 9.5 For the purposes of clauses 9.3 and 9.4, a detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
  - b) intimidation or harassment
  - c) discrimination, disadvantage or adverse treatment in relation to employment
  - d) dismissal from, or prejudice in, employment
  - e) disciplinary proceedings.

## Compliance with requirements under the Procedures

- 9.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.
- 9.8 You must comply with a practice ruling made by the Office under the Procedures.

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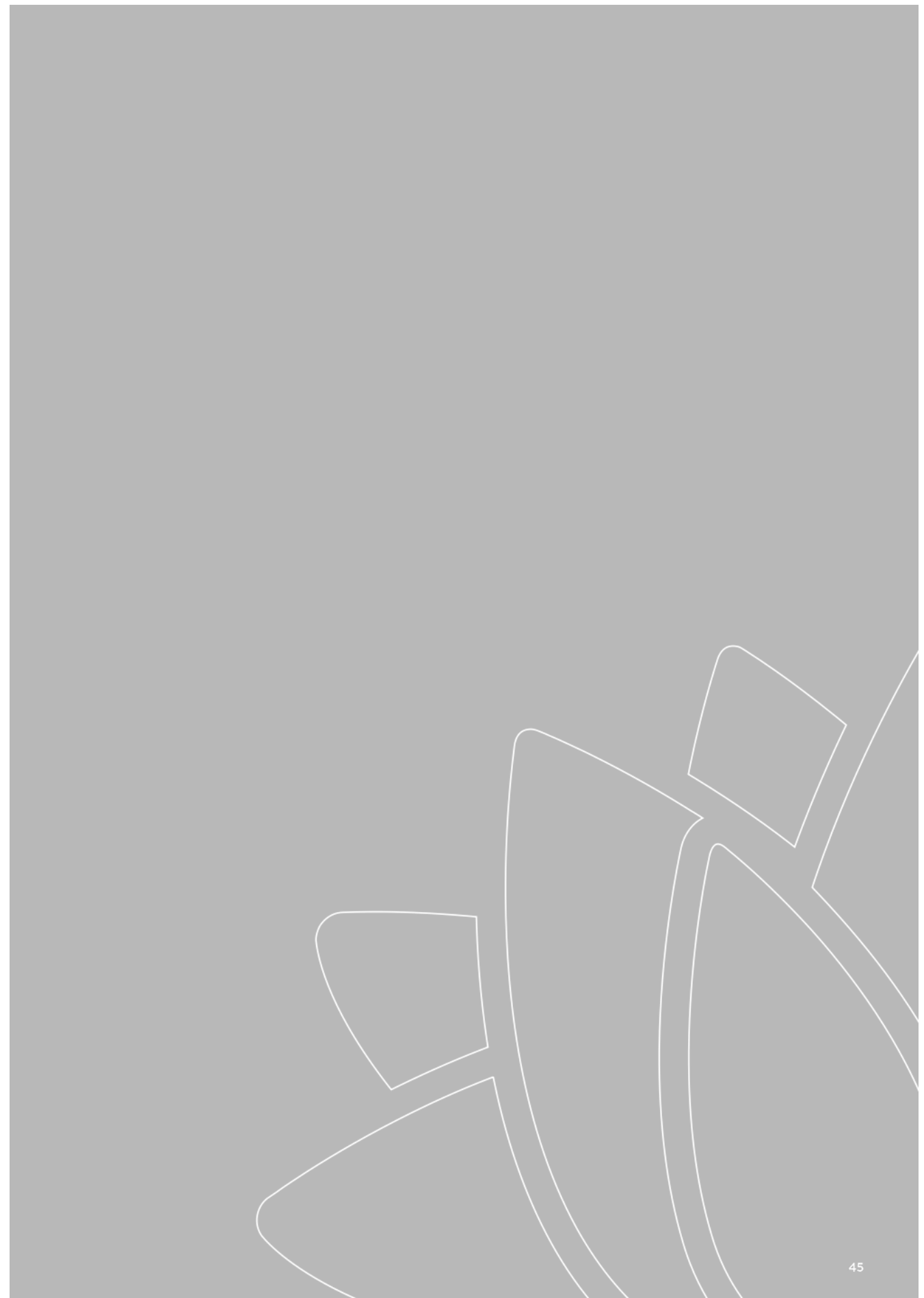
## Disclosure of information about the consideration of a matter under the Procedures


- 9.9 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.
- 9.10 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 9.11 You must not make allegations about, or disclose information about, suspected breaches of this code at council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.
- 9.12 You must not disclose information about a complaint you have made alleging a breach of this code or any other matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- 9.13 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the *Public Interest Disclosures Act 1994*.

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## Complaints alleging a breach of this Part

- 9.14 Complaints alleging a breach of this Part by a councillor, the general manager or an administrator are to be managed by the Office. This clause does not prevent the Office from referring an alleged breach of this Part back to the council for consideration in accordance with the Procedures.
- 9.15 Complaints alleging a breach of this Part by other council officials are to be managed by the general manager in accordance with the Procedures.





## **Schedule 1:**

# **Disclosures of Interest and Other Matters in Written Returns Submitted Under Clause 4.21**

## Part 1: Preliminary

### Definitions

1. For the purposes of the schedules to this code, the following definitions apply:

*address* means:

- a) in relation to a person other than a corporation, the last residential or business address of the person known to the councillor or designated person disclosing the address, or
- b) in relation to a corporation, the address of the registered office of the corporation in New South Wales or, if there is no such office, the address of the principal office of the corporation in the place where it is registered, or
- c) in relation to any real property, the street address of the property.

*de facto partner* has the same meaning as defined in section 21C of the *Interpretation Act 1987*.

*disposition of property* means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following:

- a) the allotment of shares in a company
- b) the creation of a trust in respect of property
- c) the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property
- d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property

- e) the exercise by a person of a general power of appointment over property in favour of another person
- f) a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

*gift* means a disposition of property made otherwise than by will (whether or not by instrument in writing) without consideration, or with inadequate consideration, in money or money's worth passing from the person to whom the disposition was made to the person who made the disposition, but does not include a financial or other contribution to travel.

*interest* means:

- a) in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or
- b) in relation to a corporation, a relevant interest (within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth) in securities issued or made available by the corporation.

*listed company* means a company that is listed within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth.

*occupation* includes trade, profession and vocation.

*professional or business association* means an incorporated or unincorporated body or organisation having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

*property* includes money.

*return date* means:

- a) in the case of a return made under clause 4.21(a), the date on which a person became a councillor or designated person
- b) in the case of a return made under clause 4.21(b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.21(c), the date on which the councillor or designated person became aware of the interest to be disclosed.

*relative* includes any of the following:

- a) a person's spouse or de facto partner
- b) a person's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- c) a person's spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- d) the spouse or de facto partner of a person referred to in paragraphs (b) and (c).

*travel* includes accommodation incidental to a journey.

## Matters relating to the interests that must be included in returns

2. *Interests etc. outside New South Wales:*  
A reference in this schedule or in schedule 2 to a disclosure concerning a corporation or other thing includes any reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.
3. *References to interests in real property:*  
A reference in this schedule or in schedule 2 to real property in which a councillor or designated person has an interest includes a reference to any real property situated in Australia in which the councillor or designated person has an interest.
4. *Gifts, loans etc. from related corporations:*  
For the purposes of this schedule and schedule 2, gifts or contributions to travel given, loans made, or goods or services supplied, to a councillor or designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.



## Part 2: Pecuniary interests to be disclosed in returns

### Real property

5. A person making a return under clause 4.21 of this code must disclose:
  - a) the street address of each parcel of real property in which they had an interest on the return date, and
  - b) the street address of each parcel of real property in which they had an interest in the period since 30 June of the previous financial year, and
  - c) the nature of the interest.
6. An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:
  - a) as executor of the will, or administrator of the estate, of a deceased person and not as a beneficiary under the will or intestacy, or
  - b) as a trustee, if the interest was acquired in the ordinary course of an occupation not related to their duties as the holder of a position required to make a return.
7. An interest in a parcel of real property need not be disclosed in a return if the person ceased to hold the interest prior to becoming a councillor or designated person.
8. For the purposes of clause 5 of this schedule, "interest" includes an option to purchase.

### Gifts

9. A person making a return under clause 4.21 of this code must disclose:
  - a) a description of each gift received in the period since 30 June of the previous financial year, and
  - b) the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
  - a) it did not exceed \$500, unless it was among gifts totalling more than \$500 made by the same person during a period of 12 months or less, or
  - b) it was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
  - c) the donor was a relative of the donee, or
  - d) subject to paragraph (a), it was received prior to the person becoming a councillor or designated person.
11. For the purposes of clause 10 of this schedule, the amount of a gift other than money is an amount equal to the value of the property given.

### Contributions to travel

12. A person making a return under clause 4.21 of this code must disclose:
  - a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and

- b) the dates on which the travel was undertaken, and
  - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.
13. A financial or other contribution to any travel need not be disclosed under this clause if it:
- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
  - b) was made by a relative of the traveller, or
  - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
  - d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
  - e) was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
  - f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
  - g) subject to paragraph (d) it was received prior to the person becoming a councillor or designated person.
14. For the purposes of clause 13 of this schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

## Interests and positions in corporations

15. A person making a return under clause 4.21 of this code must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
  - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
  - c) the nature of the interest, or the position held, in each of the corporations, and
  - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
  - b) required to apply its profits or other income in promoting its objects, and
  - c) prohibited from paying any dividend to its members.
17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a councillor or designated person.

## Interests as a property developer or a close associate of a property developer

19. A person making a return under clause 4.21 of this code must disclose whether they were a property developer, or a close associate of a corporation that, or an individual who, is a property developer, on the return date.

20. For the purposes of clause 19 of this schedule:

*close associate*, in relation to a corporation or an individual, has the same meaning as it has in section 53 of the *Electoral Funding Act 2018*.

*property developer* has the same meaning as it has in Division 7 of Part 3 of the *Electoral Funding Act 2018*.

## Positions in trade unions and professional or business associations

21. A person making a return under clause 4.21 of the code must disclose:
- the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and
  - the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
  - a description of the position held in each of the unions and associations.

22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a councillor or designated person.

## Dispositions of real property

23. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.
24. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property to another person (including the street address of the affected property) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.
25. A disposition of real property need not be disclosed if it was made prior to a person becoming a councillor or designated person.

## Sources of income

26. A person making a return under clause 4.21 of this code must disclose:
- each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
  - each source of income received by the person in the period since 30 June of the previous financial year.
27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:
- in relation to income from an occupation of the person:
    - a description of the occupation, and
    - if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and
    - if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
  - in relation to income from a trust, the name and address of the settlor and the trustee, or
  - in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
29. The source of any income received by the person that they ceased to receive prior to becoming a councillor or designated person need not be disclosed.
30. A fee paid to a councillor or to the mayor or deputy mayor under sections 248 or 249 of the LGA need not be disclosed.

## Debts

31. A person making a return under clause 4.21 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:
- on the return date, and
  - at any time in the period since 30 June of the previous financial year.
32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.21 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
33. A liability to pay a debt need not be disclosed by a person in a return if:
- the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:

- (i) the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
  - (ii) the amounts to be paid exceeded, in the aggregate, \$500, or
- b) the person was liable to pay the debt to a relative, or
- c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
- d) in the case of a debt arising from the supply of goods or services:
  - (i) the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
  - (ii) the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
- e) subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.

## Discretionary disclosures

34. A person may voluntarily disclose in a return any interest, benefit, advantage or liability, whether pecuniary or not, that is not required to be disclosed under another provision of this Schedule.

## Schedule 2:

# Form of Written Return of Interests Submitted Under Clause 4.21



## 'Disclosures by councillors and designated persons' return

1. The pecuniary interests and other matters to be disclosed in this return are prescribed by Schedule 1 of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).
2. If this is the first return you have been required to lodge with the general manager after becoming a councillor or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a councillor or designated person.
3. If you have previously lodged a return with the general manager and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the general manager, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year or the date on which you became a councillor or designated person, (whichever is the later date), to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
4. If you have previously lodged a return with the general manager and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.
6. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.
7. If there are no pecuniary interests or other matters of the kind required to be disclosed under a heading in this form, the word "NIL" is to be placed in an appropriate space under that heading.

## Important information

This information is being collected for the purpose of complying with clause 4.21 of the Model Code of Conduct.

You must not lodge a return that you know or ought reasonably to know is false or misleading in a material particular (see clause 4.23 of the Model Code of Conduct). Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the council, the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

The information collected on this form will be kept by the general manager in a register of returns. The general manager is required to table all returns at a council meeting.

Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

You have an obligation to keep the information contained in this return up to date. If you become aware of a new interest that must be disclosed in this return, or an interest that you have previously failed to disclose, you must submit an updated return within three months of becoming aware of the previously undisclosed interest.

Model Code of Conduct for Local Councils in NSW

Disclosure of pecuniary interests and other matters by *[full name of councillor or designated person]*

as at *[return date]*

in respect of the period from *[date]* to *[date]*

*[councillor's or designated person's signature]*

*[date]*

### A. Real Property

Street address of each parcel of real property in which I had an interest at the Nature of interest  
return date/at any time since 30 June

### B. Sources of income

1 Sources of income I reasonably expect to receive from an occupation in the period commencing  
on the first day after the return date and ending on the following 30 June

Sources of income I received from an occupation at any time since 30 June

Description of occupation	Name and address of employer or description of office held (if applicable)	Name under which partnership conducted (if applicable)
---------------------------	----------------------------------------------------------------------------------	-----------------------------------------------------------------

2 Sources of income I reasonably expect to receive from a trust in the period commencing on the  
first day after the return date and ending on the following 30 June

Sources of income I received from a trust since 30 June

Name and address of settlor	Name and address of trustee
-----------------------------	-----------------------------

3 Sources of other income I reasonably expect to receive in the period commencing on the first  
day after the return date and ending on the following 30 June

Sources of other income I received at any time since 30 June

*[Include description sufficient to identify the person from whom, or the circumstances in which,  
that income was received]*

### C. Gifts

Description of each gift I received at any time since 30 June	Name and address of donor
------------------------------------------------------------------	---------------------------



#### D. Contributions to travel

Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time since 30 June	Dates on which travel was undertaken	Name of States, Territories of the Commonwealth and overseas countries in which travel was undertaken
---------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------	-------------------------------------------------------------------------------------------------------

#### E. Interests and positions in corporations

Name and address of each corporation in which I had an interest or held a position at the return date/at any time since 30 June	Nature of interest (if any)	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)
---------------------------------------------------------------------------------------------------------------------------------	-----------------------------	----------------------------------	---------------------------------------------------------------------------------------------

#### F. Were you a property developer or a close associate of a property developer on the return date? (Y/N)

#### G. Positions in trade unions and professional or business associations

Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) at the return date/at any time since 30 June	Description of position
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------

#### H. Debts

Name and address of each person to whom I was liable to pay any debt at the return date/at any time since 30 June

#### I. Dispositions of property

1 Particulars of each disposition of real property by me (including the street address of the affected property) at any time since 30 June as a result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time

2 Particulars of each disposition of property to a person by any other person under arrangements made by me (including the street address of the affected property), being dispositions made at any time since 30 June, as a result of which I obtained, either wholly or in part, the use and benefit of the property

#### J. Discretionary disclosures

## **Schedule 3:**

# **Form of Special Disclosure of Pecuniary Interest Submitted Under Clause 4.37**

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

## Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Model Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because

you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Model Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Model Code of Conduct for Local Councils in NSW

**Special disclosure of pecuniary interests by** *[full name of councillor]*

in the matter of *[insert name of environmental planning instrument]*

which is to be considered at a meeting of the  
*[name of council or council committee (as the case requires)]*

to be held on the            day of            20    .

**Pecuniary interest**

**Address of the affected principal place of  
residence of the councillor or an associated  
person, company or body (the identified land)**

Relationship of identified land to councillor

*[Tick or cross one box.]*

- ☐ The councillor has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise).
- ☐ An associated person of the councillor has an interest in the land.
- ☐ An associated company or body of the councillor has an interest in the land.

**Matter giving rise to pecuniary interest<sup>1</sup>**

Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land)<sup>2</sup>

*[Tick or cross one box]*

- ☐ The identified land.
- ☐ Land that adjoins or is adjacent to or is in proximity to the identified land.

Current zone/planning control

*[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]*

- 1 Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.
- 2 A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest.

---

Proposed change of zone/planning control

*[Insert name of proposed LEP and identify  
proposed change of zone/planning control  
applying to the subject land]*

---

Effect of proposed change of zone/planning  
control on councillor or associated person

*[Insert one of the following: "Appreciable  
financial gain" or "Appreciable financial loss"]*

---

*[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each  
additional interest.]*

Councillor's signature

Date

[This form is to be retained by the council's general manager and included in full in the minutes of  
the meeting]



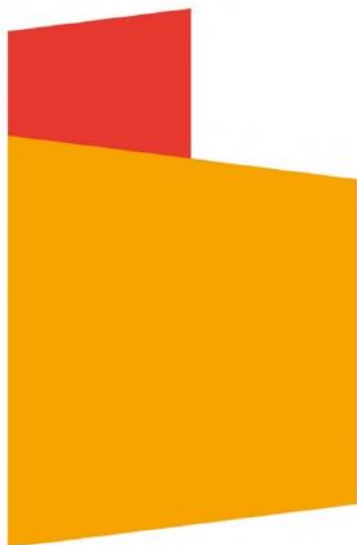
# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.8 CODE OF CONDUCT

ATTACHMENT 2 QPRC CODE OF CONDUCT



## Code of Conduct 2020

<b>Date policy was adopted:</b>	23 September 2020	<b>CEO Signature and date</b>   (date)
<b>Resolution number:</b>	183/20	
<b>Next Policy review date:</b>	2021	
<b>Reference number:</b>	52.5.4	
<b>Strategic Pillar</b>	Governance & Risk	
<b>Responsible Branch</b>	Governance	



## **QPRC Code of Conduct 2020**

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## QPRC Code of Conduct 2020

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### PART 1 INTRODUCTION

The Queanbeyan-Palerang Regional Council's Code of Conduct is based on the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct") which is made under section 440 of the *Local Government Act 1993* ("LGA") and the *Local Government (General) Regulation 2005* ("the Regulation").

The Model Code of Conduct sets the minimum standards of conduct for council officials. It is prescribed by regulation to assist council officials to:

- understand and comply with the standards of conduct that are expected of them
- enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (section 439)
- act in a way that enhances public confidence in local government.

Section 440 of the LGA requires every council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. A council's or joint organisation's adopted code of conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "council officials" for the purposes of the Model Code of Conduct (e.g. volunteers, contractors and members of wholly advisory committees).

A council's or joint organisation's adopted code of conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct. However, a council's or joint organisation's adopted code of conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct.

Councillors, administrators, members of staff of councils, delegates of councils, (including members of council committees that are delegates of a council) and any other person a council's adopted code of conduct applies to, must comply with the applicable provisions of their council's code of conduct. It is the personal responsibility of council officials to comply with the standards in the code and to regularly review their personal circumstances and conduct with this in mind.

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the LGA. The LGA provides for a range of penalties that may be imposed on councillors for misconduct, including suspension or disqualification from civic office. A councillor who has been suspended on three or more occasions for misconduct is automatically disqualified from holding civic office for five years.

Failure by a member of staff to comply with a council's code of conduct may give rise to disciplinary action.



## QPRC Code of Conduct 2020

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### PART 2 DEFINITIONS

In this code the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
committee	see the definition of “council committee”
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures.
conduct	includes acts and omissions
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council’s audit, risk and improvement committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council’s audit, risk and improvement committee
council official	includes councillors, members of staff of a council, administrators, council committee members, delegates of council and, for the purposes of clause 4.16, council advisers
councillor	any person elected or appointed to civic office, including the mayor and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns
environmental planning instrument	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>



## QPRC Code of Conduct 2020

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general manager	means the Chief Executive Officer of QPRC
joint organisation	a joint organisation established under section 400O of the LGA
LGA	<i>Local Government Act 1993</i>
local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
mayor	the Mayor of QPRC
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	Office of Local Government
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the <i>Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW</i> prescribed under the Regulation
the Regulation	the <i>Local Government (General) Regulation 2005</i>
voting representative	a voting representative of the board of a joint organisation
wholly advisory committee	a council committee that the council has not delegated any functions to



## QPRC Code of Conduct 2020

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### PART 3 GENERAL CONDUCT OBLIGATIONS

#### General conduct

- 3.1 You must not conduct yourself in a manner that:
- a) is likely to bring the council or other council officials into disrepute
  - b) is contrary to statutory requirements or the council's administrative requirements or policies
  - c) is improper or unethical
  - d) is an abuse of power
  - e) causes, comprises or involves intimidation or verbal abuse
  - f) involves the misuse of your position to obtain a private benefit
  - g) constitutes harassment or bullying behaviour under this code, or is unlawfully discriminatory.
- 3.2 You must act lawfully and honestly, and exercise a reasonable degree of care and diligence in carrying out your functions under the LGA or any other Act. (*section 439*).

#### Fairness and equity

- 3.3 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.4 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.
- 3.5 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 3.3 or 3.4.

#### Harassment and discrimination

- 3.6 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.
- 3.7 For the purposes of this code, "harassment" is any form of behaviour towards a person that:
- a) is not wanted by the person
  - b) offends, humiliates or intimidates the person, and
  - c) creates a hostile environment.



## QPRC Code of Conduct 2020

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### Bullying

- 3.8 You must not engage in bullying behaviour towards others.
- 3.9 For the purposes of this code, “bullying behaviour” is any behaviour in which:
- a) a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons, and
  - b) the behaviour creates a risk to health and safety.
- 3.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- a) aggressive, threatening or intimidating conduct
  - b) belittling or humiliating comments
  - c) spreading malicious rumours
  - d) teasing, practical jokes or ‘initiation ceremonies’
  - e) exclusion from work-related events
  - f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker’s skill level
  - g) displaying offensive material
  - h) pressure to behave in an inappropriate manner.
- 3.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:
- a) performance management processes
  - b) disciplinary action for misconduct
  - c) informing a worker about unsatisfactory work performance or inappropriate work behaviour
  - d) directing a worker to perform duties in keeping with their job
  - e) maintaining reasonable workplace goals and standards
  - f) legitimately exercising a regulatory function
  - g) legitimately implementing a council policy or administrative processes.

### Work health and safety

- 3.12 All council officials, including councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WHS Act). You must comply with your duties under the WHS Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:
- a) take reasonable care for your own health and safety
  - b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
  - c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WHS Act and any policies or procedures adopted by the council to ensure workplace health and safety
  - d) cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that has been notified to council staff
  - e) report accidents, incidents, near misses, to the general manager or such other staff member nominated by the general manager, and take part in any incident investigations





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- f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WHS Act in relation to the same matter.

### Land use planning, development assessment and other regulatory functions

- 3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.
- 3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

### Binding caucus votes

- 3.15 You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 3.16 For the purposes of clause 3.15, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee, irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.
- 3.17 Clause 3.15 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting, or from voluntarily holding a shared view with other councillors on the merits of a matter.
- 3.18 Clause 3.15 does not apply to a decision to elect the mayor or deputy mayor, or to nominate a person to be a member of a council committee or a representative of the council on an external body.

### Obligations in relation to meetings

- 3.19 You must comply with rulings by the chair at council and committee meetings or other proceedings of the council unless a motion dissenting from the ruling is passed.
- 3.20 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other council officials or any members of the public present during council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).
- 3.21 You must not engage in conduct that disrupts council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.



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3.22 If you are a councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the council, or of a committee of the council. Without limiting this clause, you must not:

- a) leave a meeting of the council or a committee for the purposes of depriving the meeting of a quorum, or
- b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or
- c) deliberately seek to impede the consideration of business at a meeting.





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### PART 4 PECUNIARY INTERESTS

#### What is a pecuniary interest?

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- (a) your interest, or
  - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
  - (c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- (a) Your “relative” is any of the following:
    - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - ii) your spouse’s or de facto partner’s parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
  - (b) “de facto partner” has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):
- (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
  - (b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
  - (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

#### What interests do not have to be disclosed?

- 4.6 You do not have to disclose the following interests for the purposes of this Part:
- (a) your interest as an elector
  - (b) your interest as a ratepayer or person liable to pay a charge
  - (c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is

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- offered to the public generally, or to a section of the public that includes persons who are not subject to this code
- (d) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this code
  - (e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
  - (f) if you are a council committee member, an interest you have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if you have been appointed to represent the organisation or group on the council committee
  - (g) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
  - (h) an interest you have arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
  - (i) an interest you have arising from the making by the council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
    - i) the performance by the council at the expense of your relative of any work or service in connection with roads or sanitation
    - ii) security for damage to footpaths or roads
    - iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council, or by or under any contract
  - (j) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor)
  - (k) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252 of the LGA,
  - (l) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor
  - (m) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person



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- (n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or a council committee member
- (o) an interest arising from the appointment of a councillor to a body as a representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

4.7 For the purposes of clause 4.6, "relative" has the same meaning as in clause 4.4, but includes your spouse or de facto partner.

### What disclosures must be made by a designated person?

4.8 Designated persons include:

- (a) the general manager
- (b) other senior staff of the council for the purposes of section 332 of the LGA
- (c) a person (other than a member of the senior staff of the council) who is a member of staff of the council or a delegate of the council and who holds a position identified by the council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
- (d) a person (other than a member of the senior staff of the council) who is a member of a committee of the council identified by the council as a committee whose members are designated persons because the functions of the committee involve the exercise of the council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

4.9 A designated person:

- (a) must prepare and submit written returns of interests in accordance with clauses 4.21, and
- (b) must disclose pecuniary interests in accordance with clause 4.10.

4.10 A designated person must disclose in writing to the general manager (or if the person is the general manager, to the council) the nature of any pecuniary interest the person has in any council matter with which the person is dealing as soon as practicable after becoming aware of the interest.

4.11 Clause 4.10 does not require a designated person who is a member of staff of the council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.

4.12 The general manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.



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- 4.13 A disclosure by the general manager must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and the council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

### What disclosures must be made by council staff other than designated persons?

- 4.14 A member of staff of council, other than a designated person, must disclose in writing to their manager or the general manager the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.

- 4.15 The staff member's manager or the general manager must, on receiving a disclosure under clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

### What disclosures must be made by council advisers?

- 4.16 A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee, must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an adviser.

- 4.17 A person does not breach clause 4.16 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.

### What disclosures must be made by a council committee member?

- 4.18 A council committee member must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29.

- 4.19 For the purposes of clause 4.18, a "council committee member" includes a member of staff of council who is a member of the committee.

### What disclosures must be made by a councillor?

- 4.20 A councillor:
- (a) must prepare and submit written returns of interests in accordance with clause 4.21, and
  - (b) must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29 where it is applicable.

### Disclosure of interests in written returns

- 4.21 A councillor or designated person must make and lodge with the general manager a return in the form set out in schedule 2 to this code, disclosing the councillor's or designated person's interests as specified in schedule 1 to this code within 3 months after:

- (a) becoming a councillor or designated person, and
- (b) 30 June of each year, and
- (c) the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).





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- 4.22 A person need not make and lodge a return under clause 4.21, paragraphs (a) and (b) if:
- (a) they made and lodged a return under that clause in the preceding 3 months, or
  - (b) they have ceased to be a councillor or designated person in the preceding 3 months.
- 4.23 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 4.24 The general manager must keep a register of returns required to be made and lodged with the general manager.
- 4.25 Returns required to be lodged with the general manager under clause 4.21(a) and (b) must be tabled at the first meeting of the council after the last day the return is required to be lodged.
- 4.26 Returns required to be lodged with the general manager under clause 4.21(c) must be tabled at the next council meeting after the return is lodged.
- 4.27 Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

### Disclosure of pecuniary interests at meetings

- 4.28 A councillor or a council committee member 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.
- 4.29 The councillor or council committee 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.
- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council

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committee member, or the councillor's or council committee member's spouse, de facto partner or relative, is:

- (a) a member of, or in the employment of, a specified company or other body, or
- (b) a partner of, or in the employment of, a specified person.

Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the councillor's or council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.

- 4.33 A councillor or a council committee member is not prevented 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 council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.34 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.35 Despite clause 4.29, a councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.36 Clause 4.29 does not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- (a) the matter is a proposal relating to:
    - (i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
    - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
  - (b) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and
  - (c) the councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.
- 4.37 A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:
- (a) be in the form set out in schedule 3 of this code and contain the information required by that form, and
  - (b) be laid on the table at a meeting of the council as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.

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- 4.38 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- (a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
  - (b) that it is in the interests of the electors for the area to do so.
- 4.39 A councillor or a council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.38, must still disclose the interest they have in the matter in accordance with clause 4.28.

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### PART 5 NON-PECUNIARY CONFLICTS OF INTEREST

#### What is a non-pecuniary conflict of interest?

- 5.1 Non-pecuniary interests are private or personal interests a council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 5.3 The personal or political views of a council official do not constitute a private interest for the purposes of clause 5.2.
- 5.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this code.
- 5.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

#### Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the general manager, such a disclosure is to be made to the staff member's manager. In the case of the general manager, such a disclosure is to be made to the mayor.
- 5.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
  - a) a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly





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close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household

- b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
- c) an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
- d) membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
- e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
- f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.

5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:

- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
- b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.

5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.

5.12 If you are a member of staff of council other than the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the general manager, the decision on which option should be taken

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to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the mayor.

- 5.13 Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.
- 5.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

### Political donations

- 5.15 Councillors should be aware that matters before council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.
- 5.16 Where you are a councillor and have received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
  - b) the major political donor has a matter before council,
- you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A disclosure made under this clause must be recorded in the minutes of the meeting.
- 5.17 For the purposes of this Part:
- a) a “reportable political donation” has the same meaning as it has in section 6 of the *Electoral Funding Act 2018*
  - b) “major political donor” has the same meaning as it has in the *Electoral Funding Act 2018*.
- 5.18 Councillors should note that political donations that are not a “reportable political donation”, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of clause 5.9 and take the appropriate action to manage them.
- 5.19 Despite clause 5.16, a councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

### Loss of quorum as a result of compliance with this Part

- 5.20 A councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary



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conflict of interest in the matter is permitted to participate in consideration of the matter if:

- a) the matter is a proposal relating to:
  - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
  - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
- b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person's principal place of residence, and
- c) the councillor discloses the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part in accordance with clause 5.6.

5.21 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- b) that it is in the interests of the electors for the area to do so.

5.22 Where the Minister exempts a councillor or committee member from complying with a requirement under this Part under clause 5.21, the councillor or committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

### Other business or employment

5.23 The general manager must not engage, for remuneration, in private employment, contract work or other business outside the service of the council without the approval of the council.

5.24 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council or that might conflict with the staff member's council duties unless they have notified the general manager in writing of the employment, work or business and the general manager has given their written approval for the staff member to engage in the employment, work or business.

5.25 The general manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council, or that might conflict with the staff member's council duties.

5.26 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council if prohibited from doing so.



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- 5.27 Members of staff must ensure that any outside employment, work or business they engage in will not:
- a) conflict with their official duties
  - b) involve using confidential information or council resources obtained through their work with the council including where private use is permitted
  - c) require them to work while on council duty
  - d) discredit or disadvantage the council
  - e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

### Personal dealings with council

- 5.28 You may have reason to deal with your council in your personal capacity (for example, as a ratepayer, recipient of a council service or applicant for a development consent granted by council). You must not expect or request preferential treatment in relation to any matter in which you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.
- 5.29 You must undertake any personal dealings you have with the council in a manner that is consistent with the way other members of the community deal with the council. You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this code.



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### PART 6 PERSONAL BENEFIT

- 6.1 For the purposes of this Part, a gift or a benefit is something offered to or received by a council official or someone personally associated with them for their personal use and enjoyment.
- 6.2 A reference to a gift or benefit in this Part does not include:
- a) items with a value of \$10 or less
  - b) a political donation for the purposes of the *Electoral Funding Act 2018*
  - c) a gift provided to the council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual council official or someone personally associated with them
  - d) a benefit or facility provided by the council to an employee or councillor
  - e) attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
  - f) free or subsidised meals, beverages or refreshments provided to council officials in conjunction with the performance of their official duties such as, but not limited to:
    - i) the discussion of official business
    - ii) work-related events such as council-sponsored or community events, training, education sessions or workshops
    - iii) conferences
    - iv) council functions or events
    - v) social functions organised by groups, such as council committees and community organisations.

#### Gifts and benefits

- 6.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.
- 6.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.

#### How are offers of gifts and benefits to be dealt with?

- 6.5 You must not:
- a) seek or accept a bribe or other improper inducement
  - b) seek gifts or benefits of any kind
  - c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
  - d) subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9



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- e) accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
  - f) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer–supplier relationship with the competition organiser
  - g) personally benefit from reward points programs when purchasing on behalf of the council.
- 6.6 Where you receive a gift or benefit of any value other than one referred to in clause 6.2, you must disclose this promptly to your manager or the general manager in writing. The recipient, manager, or general manager must ensure that, at a minimum, the following details are recorded in the council's gift register:
- a) the nature of the gift or benefit
  - b) the estimated monetary value of the gift or benefit
  - c) the name of the person who provided the gift or benefit, and
  - d) the date on which the gift or benefit was received.
- 6.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical.

### Gifts and benefits of token value

- 6.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$100. They include, but are not limited to:
- a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$100
  - b) gifts of alcohol that do not exceed a value of \$100
  - c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
  - d) prizes or awards that do not exceed \$100 in value.

### Gifts and benefits of more than token value

- 6.9 Gifts or benefits that exceed \$100 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) and, subject to clause 6.7, must not be accepted.
- 6.10 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$100, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.
- 6.11 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person

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associated with that person or organisation, during the same 12-month period would exceed \$100 in value.

- 6.12 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

### "Cash-like gifts"

- 6.13 For the purposes of clause 6.5(e), "cash-like gifts" include, but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

### Improper and undue influence

- 6.14 You must not use your position to influence other council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the proper exercise of their role as prescribed under the LGA.
- 6.15 You must not take advantage (or seek to take advantage) of your status or position with council, or of functions you perform for council, in order to obtain a private benefit for yourself or for any other person or body.

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### PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALS

#### Obligations of councillors and administrators

- 7.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. Under section 223 of the LGA, the role of the governing body of the council includes the development and endorsement of the strategic plans, programs, strategies and policies of the council, including those relating to workforce policy, and to keep the performance of the council under review.
- 7.2 Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager by way of council or committee resolution, or by the mayor or administrator exercising their functions under section 226 of the LGA
  - b) in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the staff member or delegate
  - c) contact a member of the staff of the council on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
  - d) contact or issue instructions to any of the council's contractors, including the council's legal advisers, unless by the mayor or administrator exercising their functions under section 226 of the LGA.
- 7.3 Despite clause 7.2, councillors may contact the council's external auditor or the chair of the council's audit risk and improvement committee to provide information reasonably necessary for the external auditor or the audit, risk and improvement committee to effectively perform their functions.

#### Obligations of staff

- 7.4 Under section 335 of the LGA, the role of the general manager includes conducting the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council, implementing without undue delay, lawful decisions of the council and ensuring that the mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.
- 7.5 Members of staff of council must:
- a) give their attention to the business of the council while on duty
  - b) ensure that their work is carried out ethically, efficiently, economically and effectively
  - c) carry out reasonable and lawful directions given by any person having authority to give such directions
  - d) give effect to the lawful decisions, policies and procedures of the council, whether or not the staff member agrees with or approves of them





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- e) ensure that any participation in political activities outside the service of the council does not interfere with the performance of their official duties.

### Inappropriate interactions

7.6 You must not engage in any of the following inappropriate interactions:

- a) councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- b) council staff approaching councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- c) subject to clause 8.6, council staff refusing to give information that is available to other councillors to a particular councillor
- d) councillors and administrators who have lodged an application with the council, discussing the matter with council staff in staff-only areas of the council
- e) councillors and administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the councillor or administrator has a right to be heard by the panel at the meeting
- f) councillors and administrators being overbearing or threatening to council staff
- g) council staff being overbearing or threatening to councillors or administrators
- h) councillors and administrators making personal attacks on council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media
- i) councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
- j) council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- k) council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
- l) councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's general manager or, in the case of the mayor or administrator, unless they are exercising their functions under section 226 of the LGA.



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### **PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES**

#### Councillor and administrator access to information

- 8.1 The general manager is responsible for ensuring that councillors and administrators can access information necessary for the performance of their official functions. The general manager and public officer are also responsible for ensuring that members of the public can access publicly available council information under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 8.2 The general manager must provide councillors and administrators with the information necessary to effectively discharge their official functions.
- 8.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to exercise their official functions and in accordance with council procedures.
- 8.4 Members of staff of council who provide any information to a particular councillor in the performance of their official functions must also make it available to any other councillor who requests it and in accordance with council procedures.
- 8.5 Councillors and administrators who have a private interest only in council information have the same rights of access as any member of the public.
- 8.6 Despite clause 8.4, councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public, or the council has determined to make the information available under the GIPA Act.

#### Councillors and administrators to properly examine and consider information

- 8.7 Councillors and administrators must ensure that they comply with their duty under section 439 of the LGA to act honestly and exercise a reasonable degree of care and diligence by properly examining and considering all the information provided to them relating to matters that they are required to make a decision on.

#### Refusal of access to information

- 8.8 Where the general manager or public officer determine to refuse access to information requested by a councillor or administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the councillor or administrator to perform their official functions (see clause 8.2) and whether they have disclosed a conflict of interest in the matter the information relates to that would preclude their participation in consideration of the matter (see clause 8.6). The general manager or public officer must state the reasons for the decision if access is refused.

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### Use of certain council information

- 8.9 In regard to information obtained in your capacity as a council official, you must:
- a) subject to clause 8.14, only access council information needed for council business
  - b) not use that council information for private purposes
  - c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your office or position with council
  - d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

### Use and security of confidential information

8.10 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.

8.11 In addition to your general obligations relating to the use of council information, you must:

- a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
- b) protect confidential information
- c) only release confidential information if you have authority to do so
- d) only use confidential information for the purpose for which it is intended to be used
- e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- f) not use confidential information with the intention to cause harm or detriment to the council or any other person or body
- g) not disclose any confidential information discussed during a confidential session of a council or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

### Personal information

8.12 When dealing with personal information you must comply with:

- a) the *Privacy and Personal Information Protection Act 1998*
- b) the *Health Records and Information Privacy Act 2002*
- c) the Information Protection Principles and Health Privacy Principles
- d) the council's privacy management plan
- e) the Privacy Code of Practice for Local Government

### Use of council resources

8.13 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.



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- 8.14 Union delegates and consultative committee members may have reasonable access to council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:
- a) the representation of members with respect to disciplinary matters
  - b) the representation of employees with respect to grievances and disputes
  - c) functions associated with the role of the local consultative committee.
- 8.15 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.
- 8.16 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 8.17 You must not use council resources (including council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 8.18 You must not use the council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material:
- a) for the purpose of assisting your election campaign or the election campaign of others, or
  - b) for other non-official purposes.
- 8.19 You must not convert any property of the council to your own use unless properly authorised.

### Internet access

- 8.20 You must not use council's computer resources or mobile or other devices to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, or that could otherwise lead to criminal penalty or civil liability and/or damage the council's reputation.
- 8.21 You must not use social media to host, post or share comments, photos, videos, electronic recordings or other information that:
- (a) is offensive, humiliating, threatening or intimidating to other council officials or those who deal with the council
  - (b) contains content about the council that is misleading or deceptive
  - (c) divulges confidential council information
  - (d) breaches the privacy of other council officials or those who deal with council
  - (e) contains allegations of suspected breaches of this code or information about the consideration of a matter under the Procedures, or





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- (f) could be perceived to be an official comment on behalf of the council where you have not been authorised to make such comment.

### Council record keeping

8.22 You must comply with the requirements of the *State Records Act 1998* and the council's records management policy.

8.23 All information created, sent and received in your official capacity is a council record and must be managed in accordance with the requirements of the *State Records Act 1998* and the council's approved records management policies and practices.

8.24 All information stored in either soft or hard copy on council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the council and will be treated as council records, regardless of whether the original intention was to create the information for personal purposes.

8.25 You must not destroy, alter, or dispose of council information or records, unless authorised to do so. If you need to alter or dispose of council information or records, you must do so in consultation with the council's records manager and comply with the requirements of the *State Records Act 1998*.

### Councillor access to council buildings

8.26 Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.

8.27 Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or their delegate) or as provided for in the procedures governing the interaction of councillors and council staff.

8.28 Councillors and administrators must ensure that when they are within a staff only area they refrain from conduct that could be perceived to improperly influence council staff decisions.



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### PART 9 MAINTAINING THE INTEGRITY OF THIS CODE

#### Complaints made for an improper purpose

- 9.1 You must not make or threaten to make a complaint or cause a complaint to be made alleging a breach of this code for an improper purpose.
- 9.2 For the purposes of clause 9.1, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- a) to bully, intimidate or harass another council official
  - b) to damage another council official's reputation
  - c) to obtain a political advantage
  - d) to influence a council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
  - e) to influence the council in the exercise of its functions or to prevent or disrupt the exercise of those functions
  - f) to avoid disciplinary action under the Procedures
  - g) to take reprisal action against a person for making a complaint alleging a breach of this code
  - h) to take reprisal action against a person for exercising a function prescribed under the Procedures
  - i) to prevent or disrupt the effective administration of this code under the Procedures.

#### Detrimental action

- 9.3 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this code.
- 9.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under the Procedures.
- 9.5 For the purposes of clauses 9.3 and 9.4, a detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss
  - b) intimidation or harassment
  - c) discrimination, disadvantage or adverse treatment in relation to employment
  - d) dismissal from, or prejudice in, employment
  - e) disciplinary proceedings.

#### Compliance with requirements under the Procedures

- 9.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral



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submission invited under the Procedures will not constitute a breach of this clause.

9.8 You must comply with a practice ruling made by the Office under the Procedures.

### Disclosure of information about the consideration of a matter under the Procedures

9.9 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.

9.10 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.

9.11 You must not make allegations about, or disclose information about, suspected breaches of this code at council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.

9.12 You must not disclose information about a complaint you have made alleging a breach of this code or any other matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.

9.13 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the *Public Interest Disclosures Act 1994*.

### Complaints alleging a breach of this Part

9.14 Complaints alleging a breach of this Part by a councillor, the general manager or an administrator are to be managed by the Office. This clause does not prevent the Office from referring an alleged breach of this Part back to the council for consideration in accordance with the Procedures.

9.15 Complaints alleging a breach of this Part by other council officials are to be managed by the general manager in accordance with the Procedures.





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### SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.21

#### Part 1: Preliminary

##### Definitions

1. For the purposes of the schedules to this code, the following definitions apply:

*address* means:

- a) in relation to a person other than a corporation, the last residential or business address of the person known to the councillor or designated person disclosing the address, or
- b) in relation to a corporation, the address of the registered office of the corporation in New South Wales or, if there is no such office, the address of the principal office of the corporation in the place where it is registered, or
- c) in relation to any real property, the street address of the property.

*de facto partner* has the same meaning as defined in section 21C of the *Interpretation Act 1987*.

*disposition of property* means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following:

- a) the allotment of shares in a company
- b) the creation of a trust in respect of property
- c) the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property
- d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property
- e) the exercise by a person of a general power of appointment over property in favour of another person
- f) a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

*gift* means a disposition of property made otherwise than by will (whether or not by instrument in writing) without consideration, or with inadequate consideration, in money or money's worth passing from the person to whom the disposition was made to the person who made the disposition, but does not include a financial or other contribution to travel.

*interest* means:

- a) in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or



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- b) in relation to a corporation, a relevant interest (within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth) in securities issued or made available by the corporation.

*listed company* means a company that is listed within the meaning of section 9 of the *Corporations Act 2001* of the Commonwealth.

*occupation* includes trade, profession and vocation.

*professional or business association* means an incorporated or unincorporated body or organisation having as one of its objects or activities the promotion of the economic interests of its members in any occupation.

*property* includes money.

*return date* means:

- a) in the case of a return made under clause 4.21(a), the date on which a person became a councillor or designated person
- b) in the case of a return made under clause 4.21(b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.21(c), the date on which the councillor or designated person became aware of the interest to be disclosed.

*relative* includes any of the following:

- a) a person's spouse or de facto partner
- b) a person's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- c) a person's spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- d) the spouse or de facto partner of a person referred to in paragraphs (b) and (c).

*travel* includes accommodation incidental to a journey.

### Matters relating to the interests that must be included in returns

2. *Interests etc. outside New South Wales:* A reference in this schedule or in schedule 2 to a disclosure concerning a corporation or other thing includes any reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.
3. *References to interests in real property:* A reference in this schedule or in schedule 2 to real property in which a councillor or designated person has an interest includes a reference to any real property situated in Australia in which the councillor or designated person has an interest.
4. *Gifts, loans etc. from related corporations:* For the purposes of this schedule and schedule 2, gifts or contributions to travel given, loans made, or goods



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or services supplied, to a councillor or designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.



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### Part 2: Pecuniary interests to be disclosed in returns

#### Real property

5. A person making a return under clause 4.21 of this code must disclose:
  - a) the street address of each parcel of real property in which they had an interest on the return date, and
  - b) the street address of each parcel of real property in which they had an interest in the period since 30 June of the previous financial year, and
  - c) the nature of the interest.
6. An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:
  - a) as executor of the will, or administrator of the estate, of a deceased person and not as a beneficiary under the will or intestacy, or
  - b) as a trustee, if the interest was acquired in the ordinary course of an occupation not related to their duties as the holder of a position required to make a return.
7. An interest in a parcel of real property need not be disclosed in a return if the person ceased to hold the interest prior to becoming a councillor or designated person.
8. For the purposes of clause 5 of this schedule, "interest" includes an option to purchase.

#### Gifts

9. A person making a return under clause 4.21 of this code must disclose:
  - a) a description of each gift received in the period since 30 June of the previous financial year, and
  - b) the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
  - a) it did not exceed \$500, unless it was among gifts totalling more than \$500 made by the same person during a period of 12 months or less, or
  - b) it was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
  - c) the donor was a relative of the donee, or
  - d) subject to paragraph (a), it was received prior to the person becoming a councillor or designated person.
11. For the purposes of clause 10 of this schedule, the amount of a gift other than money is an amount equal to the value of the property given.

#### Contributions to travel

12. A person making a return under clause 4.21 of this code must disclose:
  - a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
  - b) the dates on which the travel was undertaken, and



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- c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.
13. A financial or other contribution to any travel need not be disclosed under this clause if it:
- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
  - b) was made by a relative of the traveller, or
  - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
  - d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
  - e) was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
  - f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
  - g) subject to paragraph (d) it was received prior to the person becoming a councillor or designated person.
14. For the purposes of clause 13 of this schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

### Interests and positions in corporations

15. A person making a return under clause 4.21 of this code must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
  - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
  - c) the nature of the interest, or the position held, in each of the corporations, and
  - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
  - b) required to apply its profits or other income in promoting its objects, and
  - c) prohibited from paying any dividend to its members.
17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.





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18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a councillor or designated person.

### Interests as a property developer or a close associate of a property developer

19. A person making a return under clause 4.21 of this code must disclose whether they were a property developer, or a close associate of a corporation that, or an individual who, is a property developer, on the return date.

20. For the purposes of clause 19 of this schedule:

*close associate*, in relation to a corporation or an individual, has the same meaning as it has in section 53 of the *Electoral Funding Act 2018*.

*property developer* has the same meaning as it has in Division 7 of Part 3 of the *Electoral Funding Act 2018*.

### Positions in trade unions and professional or business associations

21. A person making a return under clause 4.21 of the code must disclose:
- a) the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and
  - b) the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
  - c) a description of the position held in each of the unions and associations.
22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a councillor or designated person.

### Dispositions of real property

23. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.
24. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property to another person (including the street address of the affected property) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.
25. A disposition of real property need not be disclosed if it was made prior to a person becoming a councillor or designated person.



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### Sources of income

26. A person making a return under clause 4.21 of this code must disclose:
- each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
  - each source of income received by the person in the period since 30 June of the previous financial year.
27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:
- in relation to income from an occupation of the person:
    - a description of the occupation, and
    - if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and
    - if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
  - in relation to income from a trust, the name and address of the settlor and the trustee, or
  - in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
29. The source of any income received by the person that they ceased to receive prior to becoming a councillor or designated person need not be disclosed.
30. A fee paid to a councillor or to the mayor or deputy mayor under sections 248 or 249 of the LGA need not be disclosed.

### Debts

31. A person making a return under clause 4.21 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:
- on the return date, and
  - at any time in the period since 30 June of the previous financial year.
32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.21 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
33. A liability to pay a debt need not be disclosed by a person in a return if:
- the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:



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- (i) the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
- (ii) the amounts to be paid exceeded, in the aggregate, \$500, or
- b) the person was liable to pay the debt to a relative, or
- c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
- d) in the case of a debt arising from the supply of goods or services:
  - (i) the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
  - (ii) the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
- e) subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.

### Discretionary disclosures

34. A person may voluntarily disclose in a return any interest, benefit, advantage or liability, whether pecuniary or not, that is not required to be disclosed under another provision of this Schedule.

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### **SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 4.21**

#### 'Disclosures by councillors and designated persons' return

1. The pecuniary interests and other matters to be disclosed in this return are prescribed by Schedule 1 of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).
2. If this is the first return you have been required to lodge with the general manager after becoming a councillor or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a councillor or designated person.
3. If you have previously lodged a return with the general manager and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the general manager, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year or the date on which you became a councillor or designated person, (whichever is the later date), to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
4. If you have previously lodged a return with the general manager and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.
6. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.
7. If there are no pecuniary interests or other matters of the kind required to be disclosed under a heading in this form, the word "NIL" is to be placed in an appropriate space under that heading.

#### Important information

This information is being collected for the purpose of complying with clause 4.21 of the Model Code of Conduct.

You must not lodge a return that you know or ought reasonably to know is false or misleading in a material particular (see clause 4.23 of the Model Code of Conduct). Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the council, the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.



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The information collected on this form will be kept by the general manager in a register of returns. The general manager is required to table all returns at a council meeting.

Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

You have an obligation to keep the information contained in this return up to date. If you become aware of a new interest that must be disclosed in this return, or an interest that you have previously failed to disclose, you must submit an updated return within three months of becoming aware of the previously undisclosed interest.

Disclosure of pecuniary interests and other matters by [full name of councillor or designated person]

as at [return date]

in respect of the period from [date] to [date]

[councillor's or designated person's signature]  
[date]

### A. Real Property

Street address of each parcel of real property in which I had an interest at the return date/at any time since 30 June	Nature of interest
------------------------------------------------------------------------------------------------------------------------	--------------------

### B. Sources of income

1 Sources of income I reasonably expect to receive from an occupation in the period commencing on the first day after the return date and ending on the following 30 June

Sources of income I received from an occupation at any time since 30 June

Description of occupation	Name and address of employer or description of office held (if applicable)	Name under which partnership conducted (if applicable)
---------------------------	----------------------------------------------------------------------------	--------------------------------------------------------

2 Sources of income I reasonably expect to receive from a trust in the period commencing on the first day after the return date and ending on the following 30 June

Sources of income I received from a trust since 30 June

Name and address of settlor	Name and address of trustee
-----------------------------	-----------------------------



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3 Sources of other income I reasonably expect to receive in the period commencing on the first day after the return date and ending on the following 30 June

Sources of other income I received at any time since 30 June

*[Include description sufficient to identify the person from whom, or the circumstances in which, that income was received]*

### C. Gifts

Description of each gift I received at any time since 30 June	Name and address of donor
---------------------------------------------------------------	---------------------------

### D. Contributions to travel

Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time since 30 June	Dates on which travel was undertaken	Name of States, Territories of the Commonwealth and overseas countries in which travel was undertaken
---------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------	-------------------------------------------------------------------------------------------------------

### E. Interests and positions in corporations

Name and address of each corporation in which I had an interest (if interest or held a position at the return date/at any time since 30 June)	Nature of any	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)
-----------------------------------------------------------------------------------------------------------------------------------------------	---------------	----------------------------------	---------------------------------------------------------------------------------------------

F. Were you a property developer or a close associate of a property developer on the return date? (Y/N)

### G. Positions in trade unions and professional or business associations

Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) at the return date/at any time since 30 June	Description of position
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------

### H. Debts

Name and address of each person to whom I was liable to pay any debt at the return date/at any time since 30 June
-------------------------------------------------------------------------------------------------------------------



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### I. Dispositions of property

1 Particulars of each disposition of real property by me (including the street address of the affected property) at any time since 30 June as a result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time

---

2 Particulars of each disposition of property to a person by any other person under arrangements made by me (including the street address of the affected property), being dispositions made at any time since 30 June, as a result of which I obtained, either wholly or in part, the use and benefit of the property

---

### J. Discretionary disclosures

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### **SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST SUBMITTED UNDER CLAUSE 4.37**

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

#### Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Model Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Model Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.



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Special disclosure of pecuniary interests by *[full name of councillor]*

in the matter of *[insert name of environmental planning instrument]*

which is to be considered at a meeting of the *[name of council or council committee (as the case requires)]*

to be held on the                      day of                      20                      .

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (the identified land)	
Relationship of identified land to the councillor <i>[Tick or cross one box.]</i>	<input type="checkbox"/> The councillor has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest <sup>1</sup>	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) <sup>2</sup> <i>[Tick or cross one box]</i>	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control <i>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>	

<sup>1</sup> Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.

<sup>2</sup> A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest.



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Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on councillor or associated person <i>[Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]</i>	

*[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]*

Councillor's signature

Date

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

12 JANUARY 2022

ITEM 6.8 CODE OF CONDUCT

ATTACHMENT 3 DRAFT MODEL SOCIAL MEDIA POLICY

# MODEL SOCIAL MEDIA POLICY

Consultation Draft

2021



## MODEL SOCIAL MEDIA POLICY

2020

### ACCESS TO SERVICES

The Office of Local Government is located at:

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## Introduction

### Social media – opportunities and challenges

Social media is at the heart of modern communication. Since its inception, social media has grown in popularity and influence and is now fundamental to not just how people interact with one another, but also to how we work, play and consume information and ideas.

Social media can be broadly defined as *online platforms and applications - such as social networking sites, wikis, blogs, microblogs, video and audio sharing sites, and message boards - that allow people to easily publish, share and discuss content*<sup>1</sup>. Significantly, one of social media's key features is its unprecedented reach and accessibility, in that anyone with a computer or hand-held device can use social media to generate content which has the potential to be viewed and shared by hundreds of millions of people worldwide.

Despite its obvious benefits, social media also presents a variety of challenges and risks. These include:

- the emergence of new, harmful forms of behaviour, such as cyber-bullying and trolling;
- maintaining the accuracy, reliability and integrity of information disseminated from multiple sources;
- organisations can be held liable for content uploaded onto their social media platforms by third parties;
- content uploaded in a person's private capacity can adversely affect their employment and cause significant reputational damage to colleagues and employers; and
- rapid innovation can make it difficult to keep pace with emerging technologies and trends.

### Social media and local government in NSW

As in the federal and state jurisdictions, social media has become an important tool in government and political discourse at the local level. In the context of NSW local government, social media has two primary functions:

- a) it is used by councils to interact and share information with their communities in an accessible and often more informal format.
- b) it enables councillors to promote their achievements and address their constituents directly about community issues and events in ways that either complement or bypass traditional news and print media.

In addition, many councils use social media as the platform through which they webcast their meetings. This increases transparency by providing visibility of council decision making in real time.

However, councils and councillors are not immune from the challenges associated with social media, which can pose a significant risk both in a legal sense and in terms of a council's ability to operate in a unified and coordinated way. It is therefore vital that councils have the right policy settings in place so that both councils and councillors can realise the full benefits of social media whilst mitigating risk.

### The development and intent of this policy

The Model Social Media Policy has been developed by the Office of Local Government (OLG) in consultation with councils. It is applicable to councils, county councils and joint organisations.

The Model Social Media Policy sets out an exemplar approach by incorporating examples of best practice from the social media policies of a diverse range of NSW councils, as well as from Commonwealth and State Government agencies.

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<sup>1</sup> NSW Department of Education. Social media policy: Implementation procedures – November 2018

The Model Social Media Policy provides councils, county councils and joint organisations with a robust framework for the administration and management of their social media platforms. It also sets standards of conduct for all council officials who use social media in their official capacity. It has been developed to be fit-for-purpose in a digital age where innovation and emerging trends are the norm.

The Model Social Media Policy recognises that councils use social media differently depending on factors such as a council's size and resources, the demographics of a local government area, and council's willingness to engage with their community in this way. For these reasons, the Model Social Media Policy ensures a degree of flexibility by including optional and adjustable provisions which enables each council to tailor the policy to suit its own unique circumstances.

### Content of the Model Social Media Policy

At the heart of the Model Social Media Policy are the four 'Principles' of social media engagement. These are:

- Openness
- Relevance
- Accuracy
- Respect

These principles, which are expanded upon in Part 1, should underpin every aspect of a council's social media activity and all councils and council officials should commit to upholding them.

Except for Part 8, this policy applies to council social media pages and councillor social media pages that are linked to the council's website.

The Model Social Media Policy is structured as follows:

- |               |                                                                           |
|---------------|---------------------------------------------------------------------------|
| <b>Part 1</b> | Sets out the principles of social media engagement for councils           |
| <b>Part 2</b> | Contains two administrative models that councils can adopt in relation to |

- |               |                                                                                                                                                                                |
|---------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|               | the management of their social media platforms                                                                                                                                 |
| <b>Part 3</b> | Details the administrative framework for councillors' social media platforms                                                                                                   |
| <b>Part 4</b> | Prescribes the standards of conduct expected of council officials when engaging on social media in an official capacity or in connection with their role as a council official |
| <b>Part 5</b> | Provides a framework by which councils can remove content from their social media platforms, and block or ban third parties                                                    |
| <b>Part 6</b> | Prescribes how councils' social media platforms should be used during emergencies                                                                                              |
| <b>Part 7</b> | Contains information about records management and privacy requirements relating to social media                                                                                |
| <b>Part 8</b> | Relates to personal use of social media by council officials                                                                                                                   |
| <b>Part 9</b> | Definitions                                                                                                                                                                    |

### Adoption

While not mandatory, the Model Social Media Policy reflects best practice and all councils, county councils and joint organisations are encouraged to adopt it. In doing so, they are free to adapt the policy to suit their local circumstances and operating environments or to supplement it with their own provisions.

Optional and adjustable provisions are marked in **red**.

**Note:** In adopting the Model Social Media Policy, Joint Organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".

**Note:** In adopting the Model Social Media Policy, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".

### Enforcement

Clause 3.1(b) of the *Model Code of Conduct for Local Councils in NSW* provides that council



officials must not conduct themselves in a manner that is contrary to a council's policies. If adopted by a council, a breach of the policy will be a breach of the council's code of conduct.

Concerns or complaints about the administration of a council's social media platforms should be made to the council official responsible for social media management in the first instance.

### **Acknowledgements**

The Office of Local Government wishes to thank Local Government NSW and the councils involved in drafting this Policy for their invaluable assistance.

## Model Social Media Policy

### Part 1 – Principles

- 1.1 We, the councillors, staff and other officials of (insert name of Council), are committed to upholding and promoting the following principles of social media engagement:

<b>Openness</b>	Our social media platforms are places where anyone can share and discuss issues that are relevant to our Council and the community we represent and serve.
<b>Relevance</b>	We will ensure our social media platforms are kept up to date with informative content about our Council and community.
<b>Accuracy</b>	The content we upload onto our social media platforms and any other social media platform will be a source of truth for our Council and community and we will prioritise the need to correct inaccuracies when they occur.
<b>Respect</b>	Our social media platforms are safe spaces. We will uphold and promote the behavioural standards contained in this policy and our Council's code of conduct when using our social media platforms and any other social media platform.

### Part 2 – Administrative framework for council's social media platforms

**Note: this Part contains two different models for who appoints authorised users. These models are:**

- **Option 1 – the General Manager model**
- **Option 2 – the Social Media Coordinator model**

#### Platforms

- 2.1 Council will maintain a presence on the following social media platforms:

- Facebook
- Twitter
- YouTube
- LinkedIn
- Instagram

- 2.2 Council's social media platforms must specify or provide a clearly accessible link to the 'House Rules' for engaging on the platform.

#### Establishment and deletion of Council social media platforms

- 2.3 A new council social media platform, or a social media platform proposed by a council related entity (for example, a council committee), can only be established or deleted with the written approval of the General Manager or their delegate.
- 2.4 Where a council social media platform is established or deleted in accordance with clause 2.3, the General Manager or their delegate may amend clause 2.1 of this

policy without the need for endorsement by the Council's governing body.

### **Option 1 – the 'General Manager' model**

#### **The role of the General Manager**

2.5 The role of the General Manager is to

- a) approve and revoke a staff member's status as an authorised user
- b) develop and/or approve the training and/or induction to be provided to authorised users
- c) maintain a register of authorised users
- d) maintain effective oversight of authorised users
- e) ensure the Council adheres to the rules of the social media platform(s)
- f) coordinate with the Council's (Insert name of Council department or team) to ensure the Council's social media platforms are set up and maintained in a way that maximises user friendliness and any technical problems are resolved promptly.

2.6 The General Manager is an authorised user for the purposes of this policy.

### **Option 2 – the 'Social Media Coordinator' model**

#### **Appointment and role of the Social Media Coordinator**

2.7 The General Manager will appoint a member of council staff to be the council's social media coordinator (SMC). The SMC should be a senior and suitably qualified member of staff.

2.8 The General Manager may appoint more than one SMC.

2.9 The SMC's role is to:

- a) approve and revoke a staff member's status as an authorised user

- b) develop and/or approve the training and/or induction to be provided to authorised users
- c) maintain a register of authorised users
- d) maintain effective oversight of authorised users
- e) moderate the Council's social media platforms in accordance with Part 5 of this policy
- f) ensure the Council complies with its record keeping obligations under the *State Records Act 1998* in relation to social media
- g) ensure the Council adheres to the rules of the social media platform(s)
- h) coordinate with the Council's (Insert name of Council department or team) to ensure the Council's social media platforms are set up and maintained in a way that maximises user friendliness and any technical problems are resolved promptly.

2.10 The SMC may delegate their functions under paragraphs (e) and (f) of clause 2.7 to authorised users.

2.11 The SMC is an authorised user for the purposes of this policy.

#### **Authorised users**

2.12 Authorised users are members of council staff who are authorised by the **General Manager/SMC** to upload content and engage on the Council's social media platforms on the Council's behalf.

2.13 Authorised users should be members of council staff that are responsible for managing, or have expertise in, the events, initiatives, programs or policies that are the subject of the social media content.

2.14 The General Manager/SMC will appoint **(Insert a number)** member(s) of Council staff from each division of the Council to be the authorised users for social media

content relating to the work of that division.

OR

The General Manager/SMC will appoint authorised users when required.

2.15 An authorised user must receive a copy of this policy and induction training on social media use and Council's obligations before uploading content on Council's behalf.

2.16 The role of an authorised user is to:

- a) ensure, to the best of their ability, that the content they upload onto the Council's social media platforms is accurate
- b) correct inaccuracies in Council generated content
- c) engage in discussions and answer questions about the substantive content on the Council's social media platform
- d) keep the Council's social media platforms up to date
- e) moderate the Council's social media platforms in accordance with Part 5 of this policy
- f) ensure the Council complies with its record keeping obligations under the *State Records Act 1998* in relation to social media

**Note: Paragraphs (e) and (f) are applicable if the council adopts option 1.**

- g) where authorised to do so by the SMC:
  - i) moderate the Council's social media platforms in accordance with Part 5 of this policy
  - ii) ensure the Council complies with its record keeping obligations under the *State Records Act 1998* in relation to social media

**Note: Paragraph(g) is applicable if the council adopts option 2.**

2.17 When uploading content, an authorised user must identify themselves as a member of Council staff but they are not obliged to disclose their name or position within the Council.

2.18 Authorised users must not use Council's social media platforms for personal reasons.

### Administrative tone

2.19 Authorised users upload content and engage on social media on the Council's behalf. Authorised users must use language consistent with that function and avoid expressing or appearing to express their personal views when undertaking their role.

2.20 Authorised users may use more personal, informal language when engaging on the Council's social media platforms, for example when replying to comments. Abbreviations (for example: 'CU L8r', 'How RU', 'lol') are not to be used.

### Register of authorised users

2.21 The SMC/General Manager will maintain a register of authorised users. This register is to be reviewed (Council to specify frequency) to ensure it is fit-for-purpose.

### Ceasing to be an authorised user

2.22 The General Manager / SMC may revoke a staff member's status as an authorised user, if:

- a) the staff member makes such a request
- b) the staff member has not uploaded content onto any of the Council's social media platforms in the last (council to specify time period).
- c) the staff member has failed to comply with this policy

- d) the **General Manager/SMC** is of the reasonable opinion that the staff member is no longer suitable to be an authorised user.

## Part 3 – Administrative framework for councillors’ social media platforms

- 3.1 For the purposes of this policy, councillor social platforms are not council social media platforms. Part 2 of this policy does not apply to councillors’ social media platforms.
- 3.2 Councillors are responsible for the administration and moderation of their own social media platforms (in accordance with Parts 3 and 5 of this policy) and ensuring they comply with the record keeping obligations under the *State Records Act 1998* in relation to social media.
- 3.3 Clause 3.2 also applies to councillors in circumstances where another person administers, moderates, or uploads content onto their social media platform.
- 3.4 Councillors must comply with the rules of the platform when engaging on social media.
- 3.5 The **General Manager/SMC** must ensure a link to councillors’ social media platforms is included on the councillor profile page on Council’s website.

### Induction and training

- 3.6 Councillors who engage or intend to engage on social media must receive induction training on social media use. Induction training can be undertaken either as part of the councillor’s induction program or as part of their ongoing professional development program.

### Identifying as a councillor

- 3.7 Councillors must identify themselves on their social media platforms in the following format:

*Councillor "First Name and Last Name".*

- 3.8 A councillor's social media platform must include a profile photo which is a clearly identifiable image of the councillor.
- 3.9 If a councillor becomes or ceases to be the mayor, deputy mayor, or the holder of another position (for example, chairperson of a committee), this must be clearly stated on the councillor's social media platforms and updated within (Council to specify timeframe) of a change in circumstances.

### Other general requirements for councillors' social media platforms

- 3.10 Councillor social media platforms must specify or provide a clearly accessible link to the 'House Rules' for engaging on the platform.

- 3.11 A councillor's social media platform must include a disclaimer to the following effect:

*"The views expressed and comments made on this social media platform are my own and not that of the Council".*

- 3.12 Despite clause 3.11, mayoral or councillor media releases and other content that has been authorised according to the Council's media and communications protocols may be uploaded onto a councillor's social media platform.

- 3.13 Councillors may, in consultation with the General Manager, upload publicly available Council information onto their social media platforms.

- 3.14 Councillors may use more personal, informal language when engaging on their social media platforms.

### Councillor queries relating to social media platforms

- 3.15 Questions from councillors relating to their obligations under this policy or technical queries relating to the operation of their social media platforms may be directed to the General Manager/SMC in the first instance.

### Other social media platforms administered by councillors

- 3.16 A councillor must advise the General Manager/SMC of any social media platforms they administer on which content relating to the Council or council officials is, or is expected to be, uploaded. The councillor must do so within:

- a) (Council to specify timeframe) of becoming a councillor, or
- b) (Council to specify timeframe) of becoming the administrator.

## Part 4 – Standards of conduct on social media

- 4.1 This policy only applies to council officials' use of social media in an official capacity or in connection with their role as a council official. The policy does not apply to personal use of social media that is not connected with a person's role as a council official.
- 4.2 Council officials must comply with the Council's code of conduct when using social media in an official capacity or in connection with their role as a council official.
- 4.3 Council officials must not use social media to post or share comments, photos, videos, electronic recordings or other information that:
- a) is defamatory, offensive, humiliating, threatening or intimidating to other council officials or members of the public
  - b) contains profane language or is sexual in nature
  - c) constitutes harassment and/or bullying within the meaning of clauses 3.7 and 3.9 of the *Model Code of Conduct for Local Councils in NSW*, or is unlawfully discriminatory
  - d) is contrary to their duties under the *Work Health and Safety Act 2011* and their responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety
  - e) contains content about the Council, council officials or members of the public that is misleading or deceptive
  - f) divulges confidential Council information

- g) breaches the privacy of other council officials or members of the public
- h) contains allegations of suspected breaches of the Council's code of conduct or information about the consideration of a matter under the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*,
- i) could be perceived to be an official comment on behalf of the Council where they have not been authorised to make such comment,
- j) commits the Council to any action
- k) violates an order made by a court
- l) breaches copyright
- m) advertises, endorses or solicits commercial products or business
- n) constitutes spam
- o) is in breach of the rules of the social media platform.

4.4 Council officials must:

- a) attribute work to the original author, creator or source when uploading or linking to content produced by a third party
- b) obtain written permission from a minor's parent or legal guardian before uploading content in which the minor can be identified.

4.5 Council officials must exercise caution when sharing, liking, or retweeting content as this can be regarded as an endorsement.

4.6 Council officials must not incite or encourage other persons to act in a way that is contrary to the requirements of this Part.

4.7 Councillors must uphold and accurately represent the policies and decisions of the



Council's governing body but may explain why they voted on a matter in the way that they did. (see section 232(1)(f) of the *Local Government Act 1993*)

## Part 5 – Moderation of social media platforms

- 5.1 Council officials who are responsible for the moderation of the Council's or councillors' social media platforms may remove content and 'block' or ban a person from those platforms. Such actions must be undertaken in accordance with this Part.
- 5.2 For the purposes of this Part, 'social media platform' and 'platform' means both the Council's and councillors' social media platforms.

### House Rules

- 5.3 Social media platforms must state or provide an accessible link to the 'House Rules' for engaging on the platform.
- 5.4 At a minimum, the House Rules should specify:
- a) the principles of social media engagement referred to in clause 1.1 of this policy
  - b) the type of behaviour or content that will result in that content being removed or a person being blocked or banned from the platform
  - c) the process by which a person can be blocked or banned from the platform
  - d) a statement relating to privacy and personal information (see clause 7.4 of this policy)
  - e) when the platform will be monitored (for example weekdays 9am – 5pm, during the Council's business hours)
  - f) that the social media platform is not to be used for making complaints about the Council or council officials.

**Note: If the Council adopts clause 5.4(f), the House Rules should include**

**information about, or a link to,  
Council's complaints handling policy.**

- 5.5 For the purposes of clause 5.4(b), third parties engaging on social media platforms must not post or share comments, photos, videos, electronic recordings or other information that
- a) is defamatory, offensive, humiliating, threatening or intimidating to council officials or members of the public,
  - b) contains profane language or is sexual in nature
  - c) constitutes harassment and/or bullying within the meaning of clauses 3.7 and 3.9 of the *Model Code of Conduct for Local Councils in NSW*, or is unlawfully discriminatory
  - d) contains content about the Council, council officials or members of the public that is misleading or deceptive
  - e) breaches the privacy of council officials or members of the public
  - f) contains allegations of suspected breaches of the Council's code of conduct or information about the consideration of a matter under the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*,
  - g) violates an order made by a court
  - h) breaches copyright
  - i) advertises, endorses or solicits commercial products or business,
  - j) constitutes spam
  - k) would be in breach of the rules of the social media platform.

## Removal of content

- 5.6 Where a person uploads content onto a social media platform that is of a kind specified under clause 5.5(a) – (k), the moderator may remove that content.
- 5.7 Prior to removing the content, the moderator must make a record of it (for example, a screenshot).
- 5.8 If the moderator removes content under clause 5.6, they must, where practicable, notify the person who uploaded the content that it has been removed and the reason(s) for its removal.

## Blocking or banning

- 5.9 If a person uploads content that is removed under clause 5.6 of this policy on **(Council to specify a number)** occasions, that person may be blocked or banned from **the social media platform / all social media platforms**.
- 5.10 A person may only be blocked or banned from a Council social media platform with the approval of the General Manager/SMC. This clause does not apply to blocking or banning a person from a councillor's social media platform.
- 5.11 Prior to blocking or banning a person from a social media platform, the person must, where practicable, be advised of the intention to block or ban them from the **platform/all platforms** and be given a chance to respond. Any submission made by the person must be considered prior to a determination being made to block or ban them.
- 5.12 The duration of the block or ban is to be determined by the **General Manager/SMC**, or in the case of a councillor's social media platform, the councillor.
- 5.13 Where a determination is made to block or ban a person from a **social media platform/all social media platforms**, the

person must, where practicable, be notified in writing of the decision and the reasons for it. The written notice must also advise the person which social media platforms they are blocked or banned from and the duration of the block or ban.

- 5.14 Where a person that is the subject of a block or ban continues to engage on a social media platform(s) using an alternative social media account, profile, avatar, etc, a moderator may block or ban the person from the platform(s) immediately. In these circumstances clauses 5.9 to 5.13 do not apply.

## Part 6 – Use of social media during emergencies

- 6.1 During emergencies, such as natural disasters or public health incidents, the **General Manager/SMC** will be responsible for the management of content on the Council's social media platforms.
- 6.2 Authorised users and council officials must not upload content onto the Council's or their own social media platforms which contradicts advice issued by the agency coordinating the emergency response.

## Part 7 – Records management and privacy requirements

### Records management

- 7.1 Social media information is a 'record' for the purposes of the *State Records Act 1998*.
- 7.2 Social media information must be managed in accordance with the *State Records Act 1998* and the Council's approved records management policies and practices.

### Privacy considerations and requirements

- 7.3 Social media communications are in the public domain. Council officials should exercise caution about what personal information, if any, they upload onto social media.
- 7.4 The *Privacy and Personal Information Protection Act 1998* applies to the use of social media platforms by the Council and councillors. To mitigate potential privacy risks, the Council and councillors will:
- a) advise people not to provide personal information on social media platforms
  - b) inform people if any personal information they may provide on social media platforms is to be used for official purposes
  - c) moderate comments to ensure they do not contain any personal information
  - d) advise people to contact the Council or councillors through alternative channels if they have personal information they do not want to disclose in a public forum.

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<sup>2</sup> Social Media: Guidance for Agencies and Staff (Government of South Australia) – page 9

## Part 8 – Private use of social media

**Note: Activities on social media websites are public activities. Even though privacy settings are available, content can still be shared and accessed beyond the intended recipients.**

**The terms and conditions of most social media sites state that all content becomes the property of the site on which it is posted<sup>2</sup>.**

- 8.1 Council officials who engage on social media in their private capacity should maintain a separate social media account(s) for that purpose.
- 8.2 Council officials should ensure that:
- a) they do not identify themselves as a council official on their private social media account(s)
  - b) they do not undertake any functions associated with their role as a council official on their private social media account(s)
  - c) appropriate privacy settings are enabled on their private social media account(s).

### What constitutes 'private' use?

- 8.3 For the purposes of this policy, a council official's social media engagement will be considered 'private use' when the content they upload:
- a) is not associated with, or refers to, the Council, any other council officials, contractors, related entities or any other person or organisation providing services to or on behalf of the Council, and

- b) is not related to or does not contain information acquired by virtue of their employment or role as a council official.

8.4 If a council official chooses to identify themselves as a council official, either directly or indirectly (such as in their user profile), then they will not be deemed to be acting in their private capacity for the purposes of this policy.

### Use of social media during work hours

8.5 Council staff may access and engage on social media in their private capacity during work hours for a period of time to be specified by their manager (OPTION 1).

OR

Council staff may only access and engage on social media in their private capacity while at work during breaks (OPTION 2).

OR

Council staff must not access or engage on social media in their private capacity during work hours (OPTION 3).

8.6 Council staff who do access and engage on social media in their private capacity during work hours must ensure it does not affect their required performance.

**Note: Councils that adopt clause 8.5 (Option 3) should delete clause 8.6.**

## Part 9 - Definitions

In this Model Social Media Policy, the following terms have the following meanings:

<b>authorised user</b>	members of council staff who are authorised by the General Manager or SMC to upload content and engage on the Council's social media platforms on the Council's behalf
<b>council official</b>	<p>in the case of a council - councillors, members of staff and delegates of the council (including members of committees that are delegates of the council);</p> <p>in the case of a county council – members, members of staff and delegates of the council (including members of committees that are delegates of the council);</p> <p>in the case of a joint organisation – voting representatives, members of staff and delegates of the joint organisation (including members of committees that are delegates of the joint organisation)</p>
<b>minor</b>	for the purposes of clause 4.3(b) of this policy, is a person under the age of 18 years
<b>personal information</b>	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
<b>SMC</b>	is a council's social media coordinator appointed under clause 2.7 of this policy
<b>social media</b>	online platforms and applications - such as social networking sites, wikis, blogs, microblogs, video and audio sharing sites, and message boards - that allow people to easily publish, share and discuss content. Examples of social media platforms include, but are not limited to Facebook, Twitter, Snapchat, LinkedIn, Yammer, YouTube, Instagram, Flickr and Wikipedia





# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.8 CODE OF CONDUCT

ATTACHMENT 4 CONSULTATION PAPER - COUNCILLOR CONDUCT  
ACCOUNTABILITY



# Councillor Conduct Accountability in NSW Local Government

**Consultation paper**  
November 2021



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# 1. Introduction

## About the review

The Minister for Local Government, the Hon. Shelley Hancock MP, has commissioned an independent review of the processes and procedures for dealing with allegations of councillor misconduct.

The review will examine the current administrative framework under which complaints about councillor misconduct are managed, with the aim of identifying possible areas for improvement. The review will include an examination of similar frameworks used in other jurisdictions for any lessons they may offer for improving the New South Wales framework.

This consultation paper has been prepared to facilitate an understanding of the current framework and to invite submissions identifying areas for improvement, together with suggestions for the practical application of those improvements.

All stakeholders are invited to respond to this consultation paper, including voters, ratepayers and citizens served by councillors, councils and joint organisations, individual councillors and council staff, conduct reviewers, professional and employee representative organisations, local government industry stakeholder groups and key NSW Government agencies and other related stakeholders.

The review will be undertaken by an independent consultant experienced in local government, who will author the final report canvassing options for improvement and making recommendations accordingly. Administrative support for the reviewer will be provided through the Office of Local Government (OLG) for coordination purposes. The findings and recommendations of the final report however will be those of the independent reviewer.

## Who may make submissions?

Anyone is welcome to offer comment through formal written submissions. These will be collated, and their views considered in identifying options for improvement. The views of all stakeholder groups will be given equal weight and evaluated in terms of the most

advantageous approach to achieving the best outcomes associated with fulfilling the principles for local government enshrined in the *Local Government Act 1993* (the Act).

Anyone making submissions for consideration by the review should use the Guidelines referred to in Section 2 below to formulate their contributions in the most effective way.

## Closing date for submissions

Submissions should be made before  
**28 March 2022.**

It is recognised that the timing of this review coincides with the forthcoming council elections and the caretaker period preceding the elections, as well as the Christmas/New Year period when many councils are in recess. Accordingly, a long lead time is provided for the making of submissions.

## Terminology

References to councils in this paper are to be taken as a reference to general purpose councils, county councils and joint organisations.

The term “misconduct” carries a specific technical meaning under the Act and includes among other things:

- a breach by a councillor of the Act or regulations,
- a failure by a councillor to comply with their council’s code of conduct,
- an act of disorder by a councillor at a meeting and
- any act or omission intended by a councillor to prevent the proper or effective functioning of the council or a committee of the council.

The phrase “councillor misconduct” used in this paper carries this broader meaning and includes breaches by councillors of a council’s code of conduct.

## 2. Guidelines for submissions

In order to assist stakeholders in formulating submissions that will be informative to the review and that can be compiled in a way that facilitates communication and integration into the review analysis, guidelines have been prepared and are incorporated as Attachment 1 to this consultation paper.

The guidelines generally provide advice on the form and structure of submissions to create a focus on the best way of providing information and experiences from stakeholders, to enable their valuable contribution to the review.

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## 3. Overview

This section of the consultation paper provides information and general commentary about the current framework for dealing with complaints about councillor misconduct and identifies various issues that may assist stakeholders to consider and reflect on those aspects of the framework that could be improved. While not exhaustive, the following information is intended to provide a broad overview for the purposes of consultation.

### How is councillor conduct regulated?

Australians are rightly proud of their democracy and embrace the representation they receive through their elected councils in local decision-making. Local communities rightly expect that their elected representatives on councils will observe standards of good governance and demonstrate appropriate standards of conduct as elected officials.

The legislation prescribing the framework for managing complaints about councillor misconduct has been formulated in response to a community expectation that elected representatives should observe appropriate standards of conduct and that there are appropriate mechanisms in place for enforcing compliance with those standards.

In addition to being accountable to their communities through the electoral process, councils are also subject to regulation and oversight by the NSW Government.

It does this in part through the prescription of standards of conduct that all council officials (including councillors) are required to observe through the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct) prescribed under the Act and the *Local Government (General) Regulation 2021* (the Regulation). All councils, (including county councils and joint organisations), are required to adopt a code of conduct based on the Model Code of Conduct.

Uniquely in Australia, the NSW Model Code of Conduct applies to all classes of council officials including councillors, staff and delegates of councils.

Breaches of a council's code of conduct are to be dealt with by councils in accordance with the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW* (the Model Procedures) These are also prescribed under the Act and the Regulation. All councils (including county councils and joint organisations) must adopt procedures for the administration of their codes of conduct that incorporate the provisions of the Model Procedures.

The Model Code of Conduct and Model Procedures can be found [here](#).

The Model Code of Conduct and Model Procedures are supplemented by provisions in the Act that allow the “departmental chief executive” of OLG to investigate allegations of councillor misconduct and that confer disciplinary powers on the departmental chief executive and the New South Wales Civil and Administrative Tribunal (NCAT) with respect to councillor misconduct. These provisions are referred to below as the “misconduct provisions” of the Act.

## Overview of the framework

The current framework for dealing with complaints about councillor misconduct is multi-layered with complaints escalated based on the seriousness of the alleged conduct and the severity of the disciplinary action attached to it. There is a strong focus on the informal resolution of less serious matters.

Complaints alleging breaches of a council’s code of conduct by a councillor are required initially to be dealt with locally by the council concerned in accordance with the Model Procedures.

Code of conduct complaints about councillors must be made in writing to the general manager of a council at first instance. The general manager (or a person authorised to exercise the general manager’s complaints management functions in relation to code of conduct matters) has a discretion to decline code of conduct complaints about councillors at the outset or to informally resolve them. The Model Procedures set out grounds on which complaints may be declined at the outset.

If a complaint is not declined or informally resolved at the outset, it is referred to an independent expert conduct reviewer who will deal with the matter at arms’ length of the council. The conduct reviewer will undertake a preliminary assessment to determine how the matter should be dealt with.

Conduct reviewers may decline or informally resolve complaints at the preliminary assessment stage by means such as explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology, or an undertaking not to repeat the offending behaviour.

Only more serious matters may be formally investigated by conduct reviewers. Investigations must follow strict rules that are designed to ensure that matters are dealt with fairly, confidentially and with rigour.

Where, following a formal investigation, a conduct reviewer determines that a councillor has breached the code of conduct, the conduct reviewer may recommend that the council formally censures the councillor for the breach and, where the breach is serious, that the matter is referred to OLG for further disciplinary action under the misconduct provisions of the Act.

Where the council censures a councillor for a breach of the code of conduct, the council must specify in its resolution the grounds on which the councillor is being censured. It does this by disclosing in the resolution the conduct reviewer’s findings and determination. This information is recorded in the minutes of the meeting, thereby ensuring the councillor is publicly accountable to their electors for their conduct.

As noted above, serious breaches of the code of conduct may also be referred to OLG for further disciplinary action. Some matters are automatically deemed to be serious and are referred to OLG for consideration instead of being dealt with by councils. These include allegations of:

- pecuniary interest breaches
- failure to disclose conflicts of interest arising from the receipt of political donations, and
- breaches of the “integrity” provisions of councils’ codes of conduct (ie misuse of the code of conduct, reprisal action, disclosure of information about code of conduct matters and failure to comply with a council resolution).



The departmental chief executive of OLG can take disciplinary action or refer more serious matters to the NCAT. Disciplinary action can include suspension from office or suspension of the payment of fees for up to three months by the departmental chief executive, or for up to six months by the NCAT.

The NCAT can also disqualify a councillor from holding office in any council for up to five years. Councillors who have been suspended by either the departmental chief executive or the NCAT on three or more occasions are automatically disqualified for five years.

In the case of pecuniary interest breaches, the departmental chief executive can also apply to the Supreme Court for an order requiring a councillor to pay to the council any financial benefit they received from a pecuniary interest breach.

## Code of conduct statistics

Each year, councils are required to report on the numbers of code of conduct complaints made about councillors and the general manager, how they were dealt with and how much it cost the council to deal with them. This is to ensure that councillors are individually and collectively accountable to their communities for their conduct and performance.

OLG also collects data from councils on code of conduct complaints received about councillors and the general manager each year. To date it has not been possible to separate the data based on whether a complaint was about a councillor or the council's general manager. Consequently, for the purposes of this Consultation Paper the statistics shown reflect the combined data only and any analysis needs to take this into consideration.

In the 2019/20 reporting period (from 1 September 2019 to 31 August 2020), the total number of code of conduct complaints received by councils about councillors or the general manager was 400.

Councils received on average 2.9 code of conduct complaints about councillors or their general manager during the 2019/20 reporting

period. Out of 128 general purpose and 9 county councils, 59 councils received no code of conduct complaints during that period and 25 received only 1 code of conduct complaint.

As noted above, most code of conduct complaints about councillors or the general manager are declined or resolved informally at the outset by the general manager (or the mayor in the case of complaints about the general manager) or by a conduct reviewer at the preliminary assessment stage following referral.

Of the total number of complaints finalised in the 2019/20 reporting period (411), 94 complaints (22.8%) were declined or resolved by the general manager at the outset. 139 (33.8%) complaints were declined or resolved following a preliminary assessment by a conduct reviewer.

178 (43.3%) complaints finalised in the 2019/20 reporting period were the subject of a formal investigation. Of the complaints formally investigated, 47 (26.4%) resulted in a determination that the councillor had breached the code of conduct and resulted in disciplinary action by the council such as censure. Of these, 2 complaints were referred to OLG for further disciplinary action under the misconduct provisions of the Act. In 71 cases, the conduct reviewer determined there had been no breach. 60 cases were still under investigation at the time of reporting.

There has been an increase in the number of code of conduct complaints made about councillors and general managers over time. For example, in the 2013/14 reporting period (from 1 September 2013 to 31 August 2014), 322 code of conduct complaints were received by councils about councillors or the general manager.

Data collected by OLG indicates that the proportion of complaints being declined or resolved by the general manager prior to referral to a conduct reviewer has decreased over time. The proportion of complaints declined or resolved by conduct reviewers at the preliminary assessment stage has remained constant. The proportion of complaints progressing to formal investigation has increased.

## 4. Objectives and expectations

### Purpose of the Model Code of Conduct

Section 8A of the Act sets out principles for local government. These principles relate to three broad areas of:

- exercising functions generally,
- decision-making and
- community participation.

These principles articulate the following terms and values:

- strong and effective representation, leadership, planning and decision-making
- work with others to secure appropriate services for local community needs
- act fairly, ethically and without bias in the interests of the local community
- provide a consultative and supportive working environment for staff
- recognise diverse local community needs and interests
- consider social justice principles
- be transparent and be accountable for decisions and omissions.

The Model Code of Conduct sets out standards of conduct that councillors are required to observe that reflect these principles and values. Under the Model Code of Conduct, council officials are expected to:

- conduct themselves in a manner that will not bring the council into disrepute
- act lawfully, honestly and exercise due care
- treat others with respect and not bully, harass or discriminate against them, or support others who do so
- consider issues consistently, promptly and fairly
- ensure development decisions are properly made and deal fairly with all parties involved
- disclose and appropriately manage conflicts of interests including from reportable political donations
- use and secure information appropriately and not disclose confidential information
- use council resources ethically, effectively and efficiently.

### Defining expectations

The purpose of the Model Code of Conduct is to prescribe minimum ethical and behavioural standards that all council officials are required to comply with and to ensure that councils and council officials exercise their functions and make decisions ethically and appropriately and in a way that promotes community confidence in the council and its decisions.

As with any organisation, councils can experience interpersonal conflict. This is accentuated by the fact that they operate in a political environment.

The code of conduct and the misconduct framework are not designed to prevent or resolve interpersonal or political conflict which is often a natural feature of democratic processes and political discourse. Nor is it designed or intended to prevent or restrict normal and respectful debate or constrain free speech.

### Adoption of the Model Code of Conduct by councils

All councils are required to adopt a code of conduct based on the Model Code of Conduct prescribed under the Act and the Regulation. In doing so, councils have the flexibility to strengthen the ethical and behavioural standards prescribed under the Model Code of Conduct should they choose to do so. For example, where the Model Code of Conduct allows the acceptance of gifts with a value of up to \$100, many councils have chosen to ban the acceptance of all gifts.

In adopting a code of conduct, councils must not weaken the ethical and behavioural standards prescribed under the Model Code of Conduct. A provision of a council's code of conduct that is weaker than an equivalent provision of the Model Code of Conduct is invalid, and the stronger standard prescribed in the Model Code of Conduct automatically overrides it.

As noted above, the Model Code of Conduct automatically applies to all councillors, council staff and others who exercise council functions under delegation from the council. However, in adopting a code of conduct, councils may also

extend its application to other persons such as volunteers, advisory committee members and contractors. It is also open to councils to adopt separate codes of conduct for councillors, staff and other types of council officials, provided the adopted codes are consistent with the Model Code of Conduct.

## Councillor training

Councils are required under the Regulation to deliver induction training for newly elected mayors and councillors and refresher training for returning mayors and councillors within 6 months of each ordinary council election. Councils are also required to provide ongoing professional development to mayors and councillors over the balance of the council term.

OLG has issued *Councillor Induction and Professional Development Guidelines* to inform the delivery of councillor induction training and professional development. The Guidelines are available [here](#). A key focus of the

training recommended in the Guidelines is on ethical conduct, appropriate behaviours and compliance with the council's code of conduct.

To assist councils to induct councillors into their roles and responsibilities, OLG has also delivered "Hit the Ground" running workshops after each local government elections. One of the workshop modules relates to compliance with the code of conduct.

Councils are required to report on councillors' participation in induction training and professional development in their annual reports.

OLG's Guidelines also recommend that councils hold pre-election information sessions to ensure that candidates understand their role and responsibilities if they are elected, including their obligations under the council's code of conduct. OLG has issued a Candidate Guide and an online training tool for candidates to assist councils to deliver candidate training.

### Considerations:

Should there be separate codes of conduct prescribed for councillors, staff and other classes of council official?

Are the standards of conduct currently prescribed in the Model Code of Conduct appropriate? Do they need to be strengthened or softened?

Is the level of prescription in the Model Code of Conduct appropriate? Should it be more, or less prescriptive?

Does there need to be any changes to the types of conduct currently regulated under the Model Code of Conduct?

Are the current training requirements for mayors and councillors adequate? Do these requirements need to be strengthened?

## 5. Complaint processes

### Making complaints

Under the Model Procedures, all code of conduct complaints, including complaints about councillors, staff and delegates of the council are to be made to the general manager at first instance. Complaints about the general manager are to be made to the mayor.

Concerns have been raised about whether the Model Procedures may place general managers in the invidious position of having to receive and deal with code of conduct complaints about their employers, namely the councillors.

It should be noted that under the Model Procedures, general managers are not required to have any involvement in the management of code of conduct complaints about councillors after their receipt if they choose not to. However, some general managers have observed that by simply not electing to decline a complaint and allowing it to be referred to a conduct reviewer, (even though no positive decision is required for

this to occur under the Model Procedures), they may still be exposed to criticism or reprisal by aggrieved councillors and their supporters.

General managers are permitted under the Model Procedures to delegate their functions in receiving, declining, and resolving code of conduct complaints about councillors to another member of staff or persons outside of the council if they wish.

It is also open to councils to establish shared complaints management arrangements that allow code of conduct complaints about councillors to be managed externally. There is currently only one such arrangement in place, the shared internal ombudsman service established by the City of Parramatta, Cumberland and Inner West Councils. Some councils have set up their own internal ombudsman functions and have delegated the general managers' complaints management functions to the internal ombudsman.

### Considerations:

Should code of conduct complaints about councillors continue to be dealt with locally by councils in the first instance? If not, how should they be dealt with?

Should code of conduct complaints about councillors continue to be received by the general manager of a council? If not, who should receive code of conduct complaints about councillors?

Should mayors have a more active role in the management of code of conduct complaints about councillors?

Should there continue to be a discretion to decline or resolve complaints about councillors before they are referred to a conduct reviewer?

Are the procedures for dismissing frivolous and vexatious complaints adequate and effective? How might they be improved?



## Preliminary assessment of complaints by conduct reviewers

Code of conduct complaints about councillors that are not declined or resolved at the outset by the general manager must be referred via the council's complaints coordinator to an independent conduct reviewer selected from a panel of conduct reviewers established by the council.

The complaints coordinator is a member of staff (who must not be the general manager) who is responsible for coordinating the management of code of conduct complaints, providing administrative support to conduct reviewers and acting as a point of liaison between the conduct reviewer and the council.

All councils are required to appoint a panel of conduct reviewers to manage code of conduct complaints about councillors. Many councils operate regional panels that are shared by all councils within the region.

To qualify for appointment to a panel, conduct reviewers are required to satisfy independence requirements and to possess specialist skills. The independence requirements and qualifications conduct reviewers need to satisfy to be appointed to a council's panel are prescribed under the Model Procedures.

The Model Procedures also establish guidelines for how conduct reviewers are to approach the exercise of their functions including managing conflicts of interests or bias and maintaining independence.

After complaints are referred to them, conduct reviewers are required to make a preliminary assessment of how the complaint is to be managed against criteria set out in the Model Procedures. Conduct reviewers have the following options for managing complaints about councillors. They may:

- decline to take any action in relation to the complaint (eg because it lacks merit), or
- resolve the complaint using a range of possible strategies including explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology,

or an undertaking not to repeat the offending behaviour, or

- refer the matter back to the general manager for resolution by explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology, or an undertaking not to repeat the offending behaviour, or
- refer the matter to an external agency such as OLG or ICAC, or
- formally investigate the matter.

The Model Procedures place an emphasis on the informal resolution of complaints. Only serious complaints (as defined by the Model Procedures) may be formally investigated. The Model Procedures set out criteria for determining whether a complaint is sufficiently serious to warrant formal investigation. Conduct reviewers are also required to justify their decision to formally investigate matters in their final reports after investigations are concluded.

As noted above, of the total number of complaints finalised in the 2019/20 reporting period, 33.8% complaints were declined or resolved following a preliminary assessment by a conduct reviewer. This is in addition to the 22.8% of complaints declined or resolved by the general manager prior to referral to a conduct reviewer.

## Formal investigations

As noted above, conduct reviewers may only formally investigate code of conduct complaints about councillors where they are satisfied the complaint is serious. Conduct reviewers must be satisfied as to the following before they can make a decision to formally investigate a complaint:

- that the complaint is a "code of conduct complaint" as defined under the Model Procedures, and
- that the alleged conduct, if substantiated, would be sufficiently serious to warrant the formal censure of a councillor, and
- that the matter is one that could not or should not be resolved by alternative means.

The Model Procedures set out benchmarks for seriousness that conduct reviewers must consider in making an assessment of whether a complaint is sufficiently serious to warrant formal investigation. In determining whether a matter is sufficiently serious to warrant formal censure, conduct reviewers must consider the following:

- the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
- the likely impact of the alleged conduct on the reputation of the council and public confidence in it
- whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
- any previous proven breaches by the councillor whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.

As noted above, of the total number of complaints finalised in the 2019/20 reporting period, 43.3% complaints were the subject of a formal investigation.

In undertaking formal investigations, conduct reviewers are required to follow strict rules to ensure that procedural fairness is complied with. The Model Procedures prescribe detailed requirements in this respect.

At the start of the investigation, the person being investigated (the respondent) is notified of the allegations against them and they are invited to respond by written submission. Conduct reviewers are also required to give respondents an opportunity to make submissions in person to the conduct reviewer.

Conduct reviewers are required to undertake all necessary enquiries when investigating matters.

Before completing their investigation, the conduct reviewer is required to provide a draft of their investigation report to the respondent, invite them to make a submission, and to consider their submissions.

The investigator's final report must:

- make findings of fact in relation to the matter investigated, and,
- make a determination that the conduct investigated either, constitutes a breach of the code of conduct, or does not constitute a breach of the code of conduct, and
- provide reasons for that determination.

The Model Procedures provide a detailed list of the minimum standards for the content of conduct reviewers' final investigation reports.

## Oversight by OLG

OLG exercises an oversight role to ensure code of conduct complaints are managed by councils in accordance with the Model Procedures.

OLG may, at any time, whether or not in response to a request, review the consideration of a matter under a council's code of conduct where it is concerned that a person has failed to comply with a requirement prescribed under the Model Procedures or has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct in their consideration of a matter.

OLG will also review any complaints made either directly to it or through the general manager in relation to conduct reviewers.

### Considerations:

Does the current system for referring code of conduct complaints about councillors to independent conduct reviewers work effectively? If not, how can it be improved?

Should there continue to be an emphasis on the informal resolution of code of conduct complaints about councillors? How can those processes be improved?

Are the current procedures governing the formal investigation of code of conduct complaints about councillors effective in ensuring investigations and their outcomes are robust and fair? If not, how can they be improved?

Are OLG's oversight powers adequate and effectively implemented? What improvements might be considered?

## 6. Investigation timeframes

An issue for both councils and OLG is the time taken to deal with allegations of councillor misconduct and to take disciplinary action.

### The management of complaints by councils

The Model Procedures require councils' complaints coordinators to refer code of conduct complaints about councillors that are not declined or resolved at the outset by the general manager to a conduct reviewer within 21 days of their receipt by the general manager.

Conduct reviewers are required to complete their preliminary assessments of complaints about councillors within 28 days. However, there are no time limits imposed on conduct reviewers' formal investigations of complaints.

No data is held on the average time taken by conduct reviewers to complete formal investigations.

### Investigations by OLG

Councillor misconduct matters referred by councils to OLG are dealt with in accordance with its *Framework for Managing Councillor Misconduct Allegations*. The framework is available [here](#).

The time taken by OLG to complete misconduct investigations, often includes the review and adoption of findings of investigations completed by conduct reviewers. A key concern is that disciplinary action loses its efficacy as a deterrent if it is taken long after the conduct in question occurred.

There are three factors that contribute to the time taken between the occurrence of councillor misconduct and disciplinary action taken in relation to it by OLG or the NCAT.

First, where a matter is first dealt with at the local level by a council and subsequently referred to OLG, there is the time that elapses between the complaint being made and the completion of the conduct reviewer's investigation and a decision being made by the council to refer the matter to OLG based on the conduct reviewer's recommendation.

Second, there are the timeframes taken by OLG to complete investigations of councillor misconduct.

Third, where a matter is referred to the NCAT or where disciplinary action by the departmental chief executive of OLG is appealed to the NCAT, the ultimate decision in a matter becomes even more remote in time.

Data collected on misconduct matters finalised by OLG between April 2020 and September 2021 indicates that on average, it takes OLG 59 weeks to complete misconduct investigations where disciplinary action is taken by the departmental chief executive. Where a misconduct matter is referred to the NCAT, the average time taken by the Tribunal to hand down its decision is 49 weeks (based on data collected over the last 5 years).

#### Considerations:

How can the time taken to deal with allegations of councillor misconduct be reduced?

How can the efficiency of the processes for dealing with code of conduct breaches by councillors under the Model Procedures be improved?

How can the efficiency of referrals of councillor misconduct to OLG for investigation and disciplinary action be improved?

Are there opportunities for councillor misconduct to be dealt with summarily? If so, how can this be done in a way that ensures due process and that is procedurally fair?



## 7. Outcomes

### Penalties available to councils for councillor misconduct

Where, following an investigation, a conduct reviewer determines there has been a breach of the council's code of conduct, their report is submitted to the council for disciplinary action and possible referral to OLG for further disciplinary action.

Councils are not obliged to adopt the conduct reviewer's recommendation. Where they do not do so, the council is required to provide its reasons for not adopting the recommendation in its publicly available resolution and to notify OLG of the decision. If OLG considers that disciplinary action is warranted, OLG can take disciplinary action for the breach instead of the council.

As a result of Supreme Court's decision in the matter of *Cornish v Secretary, Department of Planning, Industry and Environment*, the only penalty now available to councils for misconduct by councillors is to censure them by resolution under section 440G of the Act. During the 2019/20 reporting period, 18 code of conduct matters resulted in a recommendation that the councillor be censured.

The content of censure resolutions has been strengthened to ensure they operate more effectively as a deterrent by publicly naming councillors who have breached the council's code of conduct. When censuring a councillor, councils are now required to disclose in the resolution, the conduct reviewer's findings and determination and any other information the council considers may be relevant or appropriate.

Where councils consider that a more serious penalty is warranted, in addition to censure, they may resolve to refer a matter to OLG for further disciplinary action under the misconduct

provisions of the Act where this has been recommended by the conduct reviewer who investigated the breach. Conduct reviewers are required to consult with OLG before recommending that a matter is referred to OLG to ensure that it is suitable for referral. During the 2019/20 reporting period, two code of conduct matters resulted in the councillor being censured and the matter being referred to OLG for further disciplinary action.

Under the current Model Procedures, councillors may seek to avoid public censure for breaches of the code of conduct by voluntarily agreeing to undergo training or counselling, to apologise for their conduct or to give undertakings not to repeat their conduct before the investigator finalises their report to the council. Conduct reviewers can finalise their investigations without a report to the council where they consider these to be an appropriate outcome to the matter they are investigating.

Many councils believe that censure is an insufficient deterrent against councillor misconduct.

An objection in the past to expanding or strengthening the disciplinary powers available to councils in relation to councillors who have breached the council's code of conduct has been that these powers could be misused against minority councillors or could be used in a partisan manner. A key difference now is that the Model Procedures ensure that the only circumstances in which a council could exercise any expanded or stronger disciplinary powers, are where an independent conduct reviewer has first determined the councillor has breached the council's code of conduct and recommended disciplinary action following a formal investigation in which procedural fairness has been afforded.

## Rights of review against penalties imposed by councils

As noted above, councils are subject to oversight by OLG in the management of code of conduct complaints.

The Model Procedures allow anyone to seek a review by OLG of the way code of conduct matters have been dealt with. In reviewing code of conduct matters, as a matter of practice OLG does not seek to substitute its views for the views of a conduct reviewer on the merits of a matter, and will only intervene in the consideration of a matter where the Model Procedures have not been correctly followed or the conduct reviewer has not correctly applied the standards prescribed under the council's code of conduct to the facts found by them.

The Model Procedures also confer on councillors who have been censured by councils the right to seek a review of the council's decision by OLG. Under the Model Procedures, a respondent councillor who has been censured by a council for a breach of the council's code of conduct may, within 28 days of the sanction being imposed, seek a review by OLG of the conduct reviewer's determination and recommendation. A review may be sought on the following grounds:

- that the conduct reviewer has failed to comply with a requirement under the Model Procedures, or
- that the conduct reviewer has misinterpreted or misapplied the standards of conduct prescribed under the council's code of conduct, or
- that in imposing its sanction, the council has failed to comply with a requirement under the Model Procedures.

Where a respondent councillor requests a review, OLG may direct the council to defer any action to implement a sanction while the review is undertaken. Where the conduct reviewer or council has been found to have erred, OLG may direct the council to reconsider its decision.

If councils were to be permitted to impose more severe penalties on councillors that carried more serious consequences, consideration may need to be given to what rights of appeal should be available for these more onerous penalties.

## Penalties available to the departmental chief executive of OLG for councillor misconduct

As noted above, where a breach is serious, in addition to censure, the council may refer the matter to OLG for additional disciplinary action. Conduct reviewers are required to consult with OLG before recommending to a council that a matter is referred to OLG, to ensure that it is suitable for referral. OLG can also initiate disciplinary action on its own motion without a referral by a council.

The departmental chief executive may take the following disciplinary action in relation to councillor misconduct:

- counsel the councillor
- reprimand the councillor
- direct the councillor to cease engaging in the misconduct
- direct the councillor to apologise for the misconduct in a specified manner
- direct the councillor to undertake training
- direct the councillor to participate in mediation
- suspend the councillor from civic office for a period not exceeding 3 months
- suspend the councillor's right to be paid any fee or other remuneration for up to 3 months (without suspending the councillor from civic office for that period).

In determining which disciplinary action, if any, to take against a councillor who has engaged in misconduct, the departmental chief executive may take into account any previous incidents of misconduct by the councillor, any disciplinary action previously taken against the councillor and any other relevant matters.

In the last five years, the departmental chief executive has taken the following types of disciplinary action against councillors under the misconduct provisions of the Act:

Disciplinary action	Number of times imposed
Counselling	1
Reprimand	6
Order to cease engaging in misconduct	7
Order to apologise	3
Suspension of fees	8
Suspension from civic office	4

### Rights of appeal against disciplinary action by the departmental chief executive

Where the departmental chief executive of OLG takes disciplinary action against a councillor under the misconduct provisions of the Act, the councillor may, within 28 days, appeal the decision to the NCAT. The NCAT may stay any decision made by the departmental chief executive until such time as the NCAT determines the appeal.

On hearing the appeal, the NCAT may confirm the decision, amend the decision, or set aside the decision and substitute a new decision.

In the past five years, disciplinary action taken by the departmental chief executive has been the subject of appeal to the NCAT on 3 occasions. On one of these occasions, the NCAT has amended the departmental chief executive's decision and on one occasion it has set the decision aside.

### Penalties available to the NCAT for councillor misconduct

Under the misconduct provisions of the Act, if a breach is particularly serious, OLG may refer councillor misconduct to the NCAT for disciplinary action following investigation. The NCAT can take the following disciplinary action in relation to councillor misconduct:

- counsel the councillor
- reprimand the councillor
- suspend the councillor from civic office for a period not exceeding 6 months
- suspend the councillor's right to be paid any fee or other remuneration for up to 6 months (without suspending the councillor from civic office for that period)
- disqualify the councillor from holding civic office for a period not exceeding 5 years.

One challenge in seeking the imposition of the stronger penalties currently available for councillor misconduct under the Act is that currently they can only be imposed by NCAT. This usually requires a lengthy hearing with no guarantee of success. Recent experience indicates that NCAT also tends not to impose stronger penalties.

In the last five years, the departmental chief executive has referred 9 matters to the NCAT for disciplinary action against councillors under the misconduct provisions of the Act. All these referrals resulted in disciplinary action being taken by the NCAT against the councillor concerned (two matters are currently before the NCAT).

Where the NCAT has taken disciplinary action against councillors during this five-year period, it has taken the following types of disciplinary action against councillors:

Disciplinary action	Number of times imposed
Reprimand	4
Suspension of fees	1
Suspension from civic office	1
Disqualification from civic office	1

Decisions by the NCAT are subject to appeal to the Supreme Court or the Land and Environment Court depending on the grounds on which the appeal is being sought.

In the past five years, one decision by the NCAT to take disciplinary action against a councillor has been overturned on appeal (*Cornish v Secretary, Department of Planning, Industry and Environment*).

## Other types of penalties for councillor misconduct

Under the misconduct provisions of the Act, if a councillor has been suspended on three or more occasions by OLG or the NCAT for breaches of a council's code of conduct, they are automatically disqualified from holding office in any council for 5 years and their office automatically becomes vacant. Only one councillor has been disqualified from holding civic office on these grounds.

In the case of councillors who have financially benefitted from a breach of their pecuniary interest obligations, OLG also can apply to the Supreme Court for an order forcing the councillor to surrender the financial benefit to the council. This power has never been exercised.

### Considerations:

Should the full range of disciplinary powers previously available to councils under the Model Procedures before the Cornish decision be restored by legislation?

If councils were once again able to require councillors to apologise for breaches of the code of conduct or to give undertakings not to repeat their conduct, how should apologies and undertakings be enforced?

Should the disciplinary powers available to councils for breaches by councillors of the code of conduct be strengthened? If so, what additional disciplinary powers should be given to councils?

If councils were given stronger disciplinary powers, should the right of appeal in relation to the exercise of those powers be to OLG or to another agency or tribunal?

Are the disciplinary powers currently available to the departmental chief executive of OLG and the NCAT for councillor misconduct sufficient? If not, what additional disciplinary powers should be made available to them?

## 8. Costs

### Councils' costs

Councils are required to publicly report on the cost of dealing with code of conduct complaints about their councillors and general manager annually. This is intended to identify a "price signal" for misconduct and to make councillors accountable to their communities for their conduct and the costs of dealing with that conduct.

In the 2019/20 reporting period, the average cost incurred by councils in dealing with a single code of conduct complaint about a councillor was \$7,126.68.

### OLG's costs

Currently, OLG's complaint handling, intervention, general investigations and councillor misconduct functions are undertaken by a team that comprises of a manager and six senior investigators. The team is also supported by a lawyer embedded in the team. These resources are also called upon to undertake interventions, investigations and public inquiries arising from council maladministration.

There is no separate data that would indicate the annual costs incurred by OLG in dealing with councillor misconduct matters.

The Act allows OLG to recover the reasonable expenses incurred in the investigation of councillor misconduct from councils. This option has not been exercised to date.

### Considerations:

Who should carry the cost of dealing with complaints about councillor misconduct?

Should councils be accountable to their communities for the cost of dealing with complaints about councillor misconduct?

Should OLG be able to recover the cost of misconduct investigations from councils?

Should councils and/or OLG be able to recover the cost of dealing with complaints about councillor misconduct from councillors who have been found to have engaged in misconduct? If so, what mechanism should be used to recover these costs?



## 9. Insights from other jurisdictions

This section reports trends in the way other states and the Northern Territory handle issues of councillor conduct. The coverage is far from comprehensive but includes examples of how other systems work that may point to possible changes in New South Wales.

### Clarifying the nature of 'misconduct'

There is a trend away from defining all breaches of the Local Government Act or codes of conduct as 'misconduct'. 'Lower-level' breaches are now commonly defined as 'behavioural' or 'inappropriate conduct', to be handled largely by councils themselves (with expert assistance if necessary).

- South Australia does not use the term 'misconduct' at all. The Act is written in terms of 'behaviour' and 'integrity' – the latter term covering serious cases of fraud, misuse of position/information, conflicts of interests, bullying/harassment etc that are handled by the Ombudsman and SACAT.
- Queensland uses the terms 'unsuitable' and 'inappropriate' conduct.
- Western Australia refers to 'behavioural' breaches and breaches of 'rules of conduct'.

### Using the Local Government Act

Several states have expanded or strengthened conduct provisions in the Act itself, with less reliance on codes, regulations and policies, to give greater weight to issues of behaviour, integrity and good governance.

- Nearly all jurisdictions spell out more serious offences (as well as associated procedures and penalties) in the Act.
- South Australia has abandoned its code of conduct and sets out all the relevant principles and processes in the Act.

### Robust supporting principles

Assessing the nature and gravity of 'misconduct', and enforcing required standards, depends on clear and consistent statements of objectives, principles and responsibilities that flow through the Act, codes of conduct and meeting practices, as well as related policies for handling complaints.

- 'Ethical and legal behaviour' is one of Queensland's five overarching Local Government Principles that underpin the Act.
- South Australia recently made extensive changes to its Act, including 'to act with integrity' as the primary role of a councillor.

### Application of codes of conduct

No other state or the Northern Territory includes general managers and staff in the same code or standards of conduct as councillors.

- South Australia and Victoria are the only states without a mandatory or detailed model code of conduct.
- Victoria prescribes 'Standards of Conduct' that each council must incorporate into its own code of conduct for councillors.
- Western Australia's code extends to committee members and nominated candidates.

### Links to training programs

Required standards and reasonable expectations for good conduct are being translated into 'universal' training/professional development programs.

- Western Australia and South Australia have amended their Acts to strengthen mandatory training, including in relation to conduct and integrity; failure to complete training may lead to a fine (WA) or suspension (SA).

### **'In-house' management of meeting behaviour and councillor-to-councillor disputes**

Several jurisdictions have introduced formal procedures to avoid escalating unacceptable behaviour at meetings and personal disputes between councillors to external bodies. This may include significant additional responsibilities for mayors.

- In Queensland the chair of a meeting, acting on his/her own authority, may reprimand a councillor, order a councillor to leave a meeting and stay away from the meeting place, and have a councillor removed from the meeting place; failure to comply may become a higher-level offence.
- Victoria has a system of 'internal arbitration' to deal with councillor-to-councillor disputes, using state-approved arbiters.

### **Independent panels to handle 'mid-range' breaches**

Most jurisdictions use standing or ad hoc panels for conduct matters that cannot be handled by councils themselves but fall short of warranting very heavy penalties.

- South Australia and Western Australia have 'standards' panels; Queensland has a 'conduct tribunal'; in the Northern Territory, Tasmania and Victoria 'conduct' or 'complaints' panels are convened as required, drawn from a list of pre-approved members.
- In South Australia serious 'integrity' matters are investigated by the Ombudsman; while in Victoria they are handled by the independent Local Government Inspectorate; and in Queensland by the Independent Assessor.
- State departments/offices of local government agencies in Queensland, South Australia and Victoria have at most a minimal role; elsewhere they provide administrative support to panels and handle serious offences that require referral to state tribunals.

### **Streamlining investigations and hearings**

At the 'mid-range' level it is common for Local Government Acts to seek maximum informality in proceedings and swift resolution of allegations. The scope for parties to seek reviews and lodge appeals may be restricted.

- Most states and the Northern Territory enable panels to determine their own procedures, subject to generic principles – right to be heard, natural justice and procedural fairness.
- Tasmania limits appeals against panel decisions to denial of natural justice.

### **'Lower-level' disciplinary measures**

All states have a similar range of 'basic' sanctions (censure, apology, training/counselling, short periods of suspension etc) for offences below those handled by state tribunals or courts, but some have more severe options.

- Additional measures may include reimbursement of the council's costs, temporary loss of allowances, exclusion from meetings, suspension/exclusion from positions held other than being a councillor (eg mayor/deputy, committee chair, council's representative).
- Queensland's tribunal may require payment of a 'fine' to the council.
- Tasmania and Victoria provide for longer periods of suspension (up to 3/12 months).
- Victoria's review panels may order 'remedial action' (eg. training/counselling) regardless of whether or not misconduct has been proven.



## Significant roles for local government associations

In some jurisdictions processes for handling conduct complaints reveal a high level of cooperation or even a formal partnership between the state agency and the local government association.

- The Northern Territory association is a 'prescribed corporation' under the Act and may convene complaints panels on behalf of councils
- In South Australia, the new Behavioural Standards Panel is funded by the association under an agreement with the Minister; costs may be recovered from member councils
- In Western Australia, the association delivers approved training programs under the Act and provides guidelines and templates to help councils meet statutory requirements.

## Requirements for lodging complaints

The number of unwarranted complaints may be contained by shortening the timeframe within which they may be lodged and requiring more detailed information by means of standard form.

- Several states have standard forms for lodging complaints and require detailed information (including a statutory declaration in some cases).
- In Tasmania, complaints must be lodged within 3 months, detail efforts made to resolve the issue, and involve a lodgement fee (about \$80, refunded if complaint upheld).
- In Queensland, repeated frivolous complaints and vexatious, reckless, mischievous or malicious complaints may attract a fine.

## Role of the council chief executive

Several jurisdictions limit the potential difficulties council chief executives face if they are required – or perceived – to play a significant role in handling complaints against the mayors and councillors who employ them.

- Queensland has removed CEOs from the initial phases of handling conduct complaints; all complaints (except corrupt conduct) are 'triaged' by the Office of the Independent Assessor.
- Western Australia requires councils to have a designated complaints officer – not necessarily the CEO.
- Victoria excludes CEOs from the position of Councillor Conduct (complaints) Officer.

## Considerations:

Are there any elements of interstate frameworks for dealing with complaints about councillor misconduct that could be adapted to improve the NSW framework?

## 10. Conclusion

The review seeks input from stakeholders to identify any legislative, systemic, procedural or resourcing issues impacting adversely on the effectiveness of the current framework for dealing with councillor misconduct that need to be addressed by this review.

The consideration bullet points provided throughout the Consultation Paper are intended only as prompts to generate discussion on key issues. In making submissions, please feel free to address any other relevant issues that have not been specifically highlighted in the Consultation Paper.

Submissions, comments and suggestions are welcomed to inform further discussion, debate and deliberation on the key areas such as:

- Fairness and equity
  - access of complainants
  - substantiation of allegations
  - natural justice for councillors
  - independence of investigations and disciplinary processes
  - objective determination
  - appeal and review
- Effective procedures
  - opportunities for early resolution
  - constructive rather than adversarial approaches
  - results focused processes
  - uncomplicated procedural steps
  - timely progression
  - cost effective procedures
- Integrity of outcomes
  - increased respect for and compliance with appropriate standards of conduct
  - confidence in the framework to encourage positive conduct and to deter misconduct
  - community confidence in outcomes

# Attachment 1

## How to make a submission

Submissions may be made in writing by **28 March 2022** to the following addresses.

Post: Locked Bag 3015 NOWRA NSW 2541

Email: [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

Submissions should be labelled 'Councillor Conduct Accountability Review'.

To ensure submissions offer maximum value in assisting this review to identify the issues it needs to consider and address and to identify possible opportunities for improvement, they should be made based on the following guidelines:

- Submissions should be framed to offer constructive responses to the considerations identified in the dialogue boxes at conclusion of each section of the Consultation Paper. These are designed to prompt consideration of the key issues that need to be considered and addressed by the review.
- Submissions should focus on making positive suggestions for improvement rather than seeking to remedy past errors or failures. However, examples that illustrate any deficiencies in the current framework may assist the review in identifying opportunities for improvement.
- The review is not a vehicle to re-prosecute individual cases or as an appeal mechanism for past decisions. Submissions seeking to do this will not be considered.
- In identifying opportunities for improvement, please provide clear and relevant examples that identify deficiencies in the current framework in delivering the desired outcomes. Suggested options for improvement should be practical and readily capable of implementation.
- There is no word limit on submissions. However, the inclusion of copious attachments and appendices to illustrate the points made in a submission is discouraged and will only detract from the attention that can be given to the submission.

While every effort will be made to preserve any confidential information provided in submissions, submissions or extracts from submissions may be incorporated into the review report and may otherwise be made publicly available at the discretion of OLG in consultation with the independent reviewer. If submissions are made public, contact details will be redacted. The name of the person making a submission may be released unless that person has requested to remain anonymous.

Any submissions received are also subject to the *Government Information (Public Access) Act 2009*.

For more information, please contact OLG's Council Governance Team on (02) 4428 4100 or via email at [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au).



# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

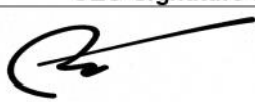
**12 JANUARY 2022**

ITEM 6.9                      COUNCILLOR INDUCTION AND PROFESSIONAL  
DEVELOPMENT POLICY

ATTACHMENT 1      QPRC COUNCILLOR INDUCTION AND PROFESSIONAL  
DEVELOPMENT POLICY



# Councillor Induction and Professional Development Policy

<b>Date policy was adopted:</b>	27 February 2019	<b>CEO Signature and date</b> 
<b>Resolution number:</b>	056/19	
<b>Next Policy review date:</b>	2020	
<b>Reference number:</b>	C1924433	
<b>Strategic Pillar</b>	Office of CEO	
<b>Responsible Branch</b>	Governance	8 March 2019

## Councillor Induction and Professional Development Policy

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### 1. OUTCOMES

- 1.1 To demonstrate Queanbeyan-Palerang Regional Council's (QPRC) commitment to ensuring that the Mayor and Councillors have access to induction and ongoing professional development which will assist them to develop and maintain the skills and knowledge required to effectively perform their civic role and responsibilities under the *Local Government Act 1993*.

### 2. POLICY

- 2.1 QPRC is committed to developing an induction and ongoing professional development program for the Mayor and Councillors to ensure they can fulfil their statutory roles and responsibilities.
- 2.2 As part of this program, the Mayor and each Councillor will have a professional development plan that identifies specific gaps in their capabilities and identify professional development activities to build these capabilities.

### 3. SCOPE OF THE POLICY

- 3.1 This policy applies to the Mayor and all Councillors of QPRC.

### 4. LEGISLATIVE OBLIGATIONS AND/OR RELEVANT STANDARDS

- 4.1 *Local Government Act 1993* as amended by the *Local Government Amendment (Governance and Planning) Act 2016*
- 4.2 The Office of Local Government's Councillor Induction and Professional Development Guidelines 2018

### 5. CONTENT

- 5.1 Council will develop an induction program for new and returning Councillors as well as a supplementary program for the Mayor to ensure they are provided with all the information they need to effectively fulfil their roles in the first few months of Council's term and feel confident in their ability to do so. The induction program will cover:
  - an orientation to council facilities and the local government area
  - an overview of the key issues and tasks for the new Council including Council's Community Strategic Plan, Delivery Program, Operational Plan, Resourcing Strategy and Community Engagement Plan
  - the legislation, rules, principles and political context under which Councils operate
  - the roles and responsibilities of councillors and the mayor
  - Council's organisational structure, workforce management strategy and the roles and responsibilities of the CEO/General Manager and Council staff
  - what Council does and how it operates, including an overview of integrated planning and reporting, land-use planning, natural resource management, financial management and asset management by Council
  - key Council policies and procedures with which Councillors must comply including the Code of Conduct
  - the role of Council meetings and how to participate effectively in them
  - the support available to the mayor and councillors and where they can find more information or assistance, and
  - information on the process for taking the Oath of Office and electing the Mayor at the first Council meeting (where applicable).

- 5.2 In the case of the mayor, the program will also cover:





## Councillor Induction and Professional Development Policy

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- how to be an effective leader of the governing body and the Council
  - the role of the Chair and how to chair Council meetings
  - the Mayor's role in integrated planning and reporting
  - the Mayor's role and responsibilities under the Code of Conduct
  - the Mayor's role and responsibilities in relation to the CEO/General Manager's employment
  - the Mayor's role at regional and other representative bodies, and
  - the Mayor's civic and ceremonial role.
- 5.3 The Mayor and Councillors must have a working knowledge and understanding of these areas by the end of the induction program.
- 5.4 The induction program will also include team building activities to help the governing body establish itself as a cohesive and collaborative team focused on a common purpose with shared values and goals. Activities will aim to ensure mayors and councillors:
- identify how they would like to work together as a team and identify a common vision for the governing body
  - build relationships with each other based on trust and mutual respect that facilitate collaboration
  - contribute to a positive and ethical culture within the governing body
  - work towards consensus as members of the governing body for the benefit of the community
  - develop respectful negotiation skills and manage alternative views within the governing body without damaging relationships
  - understand what supports or undermines the effective functioning of the governing body
  - respect the diversity of skills and experiences on the governing body, and
  - communicate and uphold the decisions of Council in a respectful way, even if their own position was not adopted.
- 5.5 Activities should also help the Mayor, as the leader of the governing body, to:
- act as a stabilising influence and show leadership, and
  - promote a culture of integrity and accountability within Council and when representing Council in the community and elsewhere.
- 5.6 The Mayor and Councillors, including those re-elected to office, must attend all induction sessions.
- 5.7 QPRC will evaluate the induction program at the end of each council term to determine whether it has achieved these outcomes, and to identify and address areas for improvement.
- 5.8 An individual ongoing professional development plan will be developed for the Mayor and each Councillor to address any gaps in the capabilities (i.e. the knowledge, skills and attributes) needed to effectively fulfil their role.
- 5.9 Each professional development plan will span the Council's term, and identify professional development activities in which the Mayor or Councillor will participate.
- 5.10 Professional development activities will be prioritised according to need and approved by the CEO/General Manager where Council funds are required in accordance with the QPRC Expenses and Facilities for the Mayor and Councillors Policy.

## Councillor Induction and Professional Development Policy

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- 5.11 The Mayor and Councillors are expected to complete all the activities included in their professional development plan.
- 5.12 Professional development activities will, wherever possible, follow the 70/20/10 principle.
- 5.13 The 70/20/10 principle requires that:
- 70% of learning activities are provided via learning and developing from experience, for example, on-the-job training, self-directed learning, developmental roles, problem solving, exposure and practice
  - 20% of learning activities are provided via learning and training through others, for example, personal or professional networks, coaching, mentoring, feedback, memberships and professional associations, and
  - 10% of learning activities are provided via learning and developing through structured programs, for example, training courses, external or in-house workshops, seminars, webinars and other e-learning and briefing sessions conducted by the Council, external training providers or industry bodies.
- 5.14 The timing of professional development activities for the mayor and councillors will be designed in such a way so as to not overload councillors with learning activities in the early part of the Council's term.
- 5.15 The timing will reflect what knowledge and skills the Mayor and Councillors need at various points in Council's term to undertake their roles.
- 5.16 The Mayor and Councillors will be provided with as much notice as possible for upcoming induction and professional development activities.

### 6. RESPONSIBILITIES

- 6.1 The Mayor and each Councillor are responsible for making themselves available to attend any development activities identified in their professional development plan.
- 6.2 The Mayor and all Councillors must make all reasonable endeavours to attend and participate in the induction sessions and professional development activities arranged for them during the term of the council.
- 6.3 Council's Service Manager Governance is responsible for planning, scheduling and facilitating induction and professional development activities for the Mayor and Councillors in consultation with the CEO/General Manager.
- 6.4 The CEO/General Manager has overall responsibility for QPRC's induction and professional development program.
- 6.5 Professional development activities that require Council's funds are to be approved by the CEO/General Manager in accordance with QPRC's Expenses and Facilities for the Mayor and Councillors Policy.

### 7. EVALUATION

- 7.1 Council will evaluate the professional development program at the end of each Council term to assess whether it was effective in assisting the Mayor and Councillors to develop the capabilities required to fulfil their civic roles.

## **Councillor Induction and Professional Development Policy**

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### **8. REPORTING**

8.1 The CEO/General Manager will publicly report each year in Council's annual report:

- The name of the Mayor and each individual Councillor who completed Council's induction program (where an induction program has been delivered during the relevant year).
- The name of the Mayor and each Councillor who participated in any ongoing professional development program during the year.
- The number of training and other activities provided to the Mayor and Councillors during the year as part of a professional development program.
- The total cost of induction and professional development activities and any other training provided to the Mayor and Councillors during the relevant year.

# QUEANBEYAN-PALERANG REGIONAL COUNCIL

## Council Meeting Attachment

12 JANUARY 2022

ITEM 6.9 COUNCILLOR INDUCTION AND PROFESSIONAL  
DEVELOPMENT POLICY

ATTACHMENT 2 OLG - COUNCILLOR DEVELOPMENT PROGRAM

## **OLG - Hit the Ground Running webinars**

OLG's 12-week online series of Hit the Ground Running webinars will be held each Saturday from 2pm, running for up to two hours, starting on 5 February 2022.

These comprehensive webinars will cover key elements of a councillor's role and responsibilities as well as core areas such as financial management, the code of conduct, working together, strategic planning, Crown Land, and water.

If you are a new or returning councillor and wish to register your interest to attend a webinar, please complete the "Registration of Interest Form" that can be found in the Council Portal.

Date Session

### **Sat 5 Feb Roles and responsibilities**

Participants will understand everything councillors need to know to achieve positive community outcomes and understand the context in which councils operate. Participants will understand their council's role in the local community, the different roles of a councillor and how to manage the challenges involved.

### **Sat 12 Feb Making the most of meetings**

Participants will understand the purpose, process and expectations for council meetings and how to maximise the benefits.

### **Sat 19 Feb Integrated Planning and Reporting**

Participants will understand how to engage with their community, set the long-term direction of council and ensure that money and other resources are used effectively. Participants will understand their obligations under Integrated Planning and Reporting, its effectiveness as a planning tool and be updated regarding general strengths and areas for development.

### **Sat 26 Feb Internal audit**

Participants will learn about the new mandatory local government risk management and internal audit framework with particular emphasis on how audit, risk and improvement committees will support councillors to perform their roles as the strategic drivers and decision makers of councils.

### **Sat 5 March The governing body and financial management of councils**

Participants will gain an understanding of their legislative responsibilities in relation to accounting practice, financial management and financial reporting of councils.

Sat 12 March **Appropriate conduct and ethical decision-making**

Participants will understand the Model Code of Conduct and how to protect and enhance their individual and council's credibility and reputation through appropriate conduct.

Sat 19 March **Working together**

Participants will learn how to create a healthy, inclusive and respectful workplace that is fundamental for creating a successful organisation.

Sat 2 April **Local and Regional Strategic Planning**

Participants will receive an introduction and overview and gain an understanding of their responsibilities as a councillor when it comes to local and regional strategic planning.

Sat 9 April **Introduction to Crown Land, native title, and Aboriginal land rights**

Participants will receive an introduction to Crown Land and council requirements under the Crown Land Management Act 2016 and gain an understanding of the Native Title Act 1993, and Aboriginal land rights under the Aboriginal Land Rights Act 1983.

Easter Saturday

Sat 23 April **Water: Make it your business**

Participants will develop a greater understanding of their additional responsibilities when councils provide essential water services. Using case studies and interviews the seminar will illustrate a range of water issues that councillors will encounter when making decisions about drinking water, recycled water and sewage.

Sat 30 April **Ongoing professional development**

Participants will learn what it takes to be successful in the role, as well as understand what their individual training and support requirements are and how they can undertake further professional development during their term as a councillor.

# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.10            MODEL POLICY - COUNCILLOR AND STAFF INTERACTION

ATTACHMENT 1    MODEL POLICY - COUNCILLOR AND STAFF INTERACTION



# MODEL COUNCILLOR AND STAFF INTERACTION POLICY

Consultation Draft

2021



## **MODEL COUNCILLOR AND STAFF INTERACTION POLICY**

2020

### **ACCESS TO SERVICES**

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### **OFFICE HOURS**

Monday to Friday

9.00am to 5.00pm

(Special arrangements may be made if these hours are unsuitable)

All offices are wheelchair accessible.

### **ALTERNATIVE MEDIA PUBLICATIONS**

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## Preface

### Positive working relationships between councillors and staff: a council's key asset

Positive, professional working relationships between councillors and staff are a key element of any council's success. If relationships between councillors and staff are functioning effectively, the council is more likely to perform effectively. If relationships are dysfunctional, then the council's performance will suffer.

A good relationship between councillors and staff is based, in large part, on both having a mutual understanding and respect for each other's roles and responsibilities. These are defined in the *Local Government Act 1993* (the LGA) and the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).

In broad terms, a councillor's role is a strategic one. As members of the governing body, councillors are responsible not only for representing the community, but also for setting the strategic direction of the council and keeping its performance under review. A comprehensive outline of the role of a councillor is provided in Part 4 of this Policy.

The role of council staff, under the leadership of the general manager, is to carry out the day-to-day operations of the council and to implement the decisions, plans, programs and policies adopted by the governing body.

### Access to information: the key to the relationship

Councillors need access to information about the council's strategic position and performance to perform their civic functions effectively. The general manager and staff are responsible for providing councillors with this information to facilitate the decision-making process.

Given councillors' role in setting the council's strategic direction and keeping its performance under review, councillors are entitled to request information about a range of issues.

However, in requesting information, councillors should not be seeking to interrogate the minutiae of the council's operations or to direct or influence staff in the performance of their duties. Councillors should also recognise that a council's resources are finite, and they need to be mindful of the impact of their requests.

Above all, interactions between councillors and staff should be positive, respectful and professional.

### The development and intent of this policy

This Model Councillor and Staff Interaction Policy has been developed by the Office of Local Government (OLG) in consultation with councils. It is applicable to councils, county councils and joint organisations.

It provides an exemplar approach, incorporating examples of best practice from a diverse range of NSW councils. At its core, the policy has two main goals:

- to establish a framework by which councillors can access the information they need to perform their civic functions, and
- to promote positive and respectful interactions between councillors and staff.

The Model Councillor and Staff Interaction Policy is structured as follows:

<b>Part 1</b>	Introduction
<b>Part 2</b>	Sets out the scope of the policy
<b>Part 3</b>	Describes the policy's objectives
<b>Part 4</b>	Sets out the respective roles and responsibilities of councillors and staff and the principles that should guide their interactions
<b>Part 5</b>	Sets out the administrative framework for a councillor requests system
<b>Part 6</b>	Identifies which staff councillors can contact directly
<b>Part 7</b>	Addresses councillors' entitlement to access council buildings

**Part 8** Describes appropriate and inappropriate interactions between councillors and staff

**Schedule 1** Contains a template for a list of staff councillors can contact directly under Part 6 of the policy

### Adoption

While not mandatory, the Model Councillor and Staff Interaction Policy reflects best practice and all councils, county councils and joint organisations are encouraged to adopt it. In doing so, they are free to adapt the policy to suit their local circumstances and operating environments or to supplement it with their own provisions.

Provisions which can be adjusted are marked in red.

**Note:** In adopting the policy, joint organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".

**Note:** In adopting the policy, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".

### Enforcement

Clause 3.1(b) of the Model Code of Conduct provides that council officials must not conduct themselves in a manner that is contrary to a council's policies. If adopted by a council, a breach of the policy may also constitute a breach of council's code of conduct.

Concerns or complaints about the administration of a council's councillor request system should be raised with the general manager in the first instance.

### Acknowledgements

OLG wishes to thank Local Government NSW and the councils involved for their invaluable assistance in developing the Model Councillor and Staff Interaction Policy.

# Model Councillor and Staff Interaction Policy

## Part 1 – Introduction

- 1.1 *The Councillor and Staff Interaction Policy* (the Policy) provides a framework for councillors when exercising their civic functions by specifically addressing their ability to interact with, and receive advice from, authorised staff.
- 1.2 The Policy complements and should be read in conjunction with (Insert name of Council's) *Code of Conduct* (the Code of Conduct).
- 1.3 The aim of the Policy is to facilitate a positive working relationship between councillors, as the community's elected representatives, and staff, who are employed to administer the operations of the Council. The Policy provides direction on interactions between councillors and staff to assist both parties in carrying out their day-to-day duties professionally, ethically and respectfully.
- 1.4 It is important to have an effective working relationship that recognises the important but differing contribution both parties bring to their complementary roles.

## Part 2 – Application

- 2.1 This Policy applies to all councillors and council staff.
- 2.2 This Policy applies to all interactions between councillors and staff, whether face-to-face, online (including social media and virtual meeting platforms), by phone, text message or in writing.
- 2.3 This Policy applies whenever interactions between councillors and staff occur, including inside or outside of work hours, and at both council and non-council venues and events.
- 2.4 This Policy does not confer any delegated authority upon any person. All delegations to staff are made by the General Manager.
- 2.5 Clause 3.1(b) of the Code of Conduct provides council officials must not conduct themselves in a manner that is contrary to a council's policies. A breach of this Policy will be a breach of the Code.

## Part 3 – Policy objectives

3.1 The objectives of the Policy are to:

- a) establish positive, effective and professional working relationships between councillors and staff defined by mutual respect and courtesy
- b) enable councillors and staff to work together appropriately and effectively to support each other in their respective roles
- c) ensure that councillors receive advice in an orderly, courteous and appropriate manner to assist them in the performance of their civic duties
- d) ensure councillors have adequate access to information to exercise their statutory roles
- e) provide direction on, and guide councillor interaction with, staff for both obtaining information and in general situations
- f) maintain transparent decision making and good governance arrangements
- g) ensure the reputation of Council is enhanced by councillors and staff interacting consistently, professionally and positively in their day-to-day duties
- h) provide a clear and consistent framework through which breaches of the Policy will be managed in accordance with the Code of Conduct.

## Part 4 – Principles, roles and responsibilities

- 4.1 Several factors contribute to a good relationship between councillors and staff. These include goodwill, understanding of roles, communication, protocols, and a good understanding of legislative requirements.
- 4.2 The Council's governing body and its administration (being staff within the organisation) must have a clear and sophisticated understanding of their different roles, and the fact that these operate within a hierarchy. The administration is accountable to the General Manager, who in turn, is accountable to the Council's governing body.
- 4.3 Section 232 of the *Local Government Act 1993* (the LGA) states that the role of a councillor is as follows:
  - a) to be an active and contributing member of the governing body
  - b) to make considered and well-informed decisions as a member of the governing body
  - c) to participate in the development of the integrated planning and reporting framework
  - d) to represent the collective interests of residents, ratepayers and the local community
  - e) to facilitate communication between the local community and the governing body
  - f) to uphold and represent accurately the policies and decisions of the governing body
  - g) to make all reasonable efforts to acquire and maintain the skills



necessary to perform the role of a councillor.

4.4 The administration's role is to advise the governing body, implement Council's decisions and to oversee service delivery.

4.5 It is beneficial if the administration recognises the complex political environments in which elected members operate and acknowledge that they work within a system that is based on democratic governance. Councillors similarly need to understand that it is a highly complex task to prepare information and provide quality advice on the very wide range of issues that Council operations cover.

4.6 Council commits to the following principles to guide interactions between councillors and staff:

**Principle**

**Achieved by**

**Equitable and consistent**

Ensuring appropriate, consistent and equitable access to information for all councillors within established service levels

**Considerate and respectful**

Councillors and staff working supportively together in the interests of the whole community, based on mutual respect and consideration of their respective positions

**Ethical, open and transparent**

Ensuring that interactions between councillors and staff are ethical, open, transparent, honest and display the highest standards of professional conduct

**Fit for purpose**

Ensuring that the provision of equipment and information to councillors is

done in a way that is suitable, practical and of an appropriate size, scale and cost for a client group of (Council to insert the number of councillors) people.

**Accountable and measurable**

Providing support to councillors in the performance of their role in a way that can be measured, reviewed and improved based on qualitative and quantitative data

4.7 Councillors are members of the Council's governing body, which is responsible for directing and controlling the affairs of the Council in accordance with the LGA. Councillors need to accept that:

- a) responses to requests for information from councillors may take time and consultation to prepare and be approved prior to responding
- b) staff are not accountable to them individually
- c) they must not direct staff except by giving appropriate direction to the General Manager by way of a council or committee resolution, or by the mayor exercising their functions under section 226 of the LGA
- d) they must not, in any public or private forum, direct or influence, or attempt to direct or influence, a member of staff in the exercise of their functions
- e) they must not contact a member of staff on council-related business unless in accordance with this Policy

- f) they must not use their position to attempt to receive favourable treatment for themselves or others.
- 4.8 The General Manager is responsible for the efficient and effective day-to-day operation of the Council and for ensuring that the lawful decisions of the Council are implemented without undue delay. Council staff need to understand:
- a) they are not accountable to individual councillors and do not take direction from them. They are accountable to the General Manager, who in turn is accountable to the Council's governing body
  - b) they should not provide advice to councillors unless it has been approved by the General Manager
  - c) they must carry out reasonable and lawful directions given by any person having the authority to give such directions in an efficient and effective manner
  - d) they must ensure that participation in political activities outside the service of the Council does not interfere with the performance of their official duties
  - e) they must provide full and timely information to councillors sufficient to enable them to exercise their civic functions in accordance with this Policy.

## Part 5 – The councillor requests system

- 5.1 Councillors have a right to request information provided it is relevant to councillor's exercise of their civic functions. This right does not extend to matters about which a councillor is merely curious.
- 5.2 Councillors do not have a right to request information about matters that they are prevented from participating in decision-making on because of a conflict of interest, unless the information is otherwise publicly available.
- 5.3 The General Manager may identify Council support staff (the Councillor support officer) under this Policy for the management of requests from councillors.
- 5.4 Councillors can use the councillor requests system to:
  - a) request information or ask questions that relate to the strategic position, performance or operation of the Council
  - b) bring concerns that have been raised by members of the public to the attention of staff
  - c) request ICT or other support from the Council administration.
- 5.5 Councillors must, to the best of their knowledge, be specific about what information they are requesting, and make their requests respectfully. Where a councillor's request lacks specificity, the General Manager or staff member authorised to manage the matter is entitled to ask the councillor to clarify their request and the reason(s) why they are seeking the information.

- 5.6 Staff must make every reasonable effort to assist councillors with their requests and do so in a respectful manner.
- 5.7 The General Manager or the staff member authorised to manage a councillor request will provide a response within (Council to insert timeframes for responding to councillor requests). Where a response cannot be provided within that timeframe, the councillor will be advised, and the information will be provided as soon as practicable.
- 5.8 Councillors are required to treat all information provided by staff appropriately and to observe any confidentiality requirements.
- 5.9 Staff will inform councillors of any confidentiality requirements for information they provide so councillors can handle the information appropriately.
- 5.10 Where a councillor is unsure of confidentiality requirements, they should contact the General Manager, or the staff member authorised to manage their request.
- 5.11 The General Manager may refuse access to information requested by a councillor if:
- a) the information is not necessary for the performance of the councillor's civic functions, or
  - b) the councillor has previously declared a conflict of interest in the matter and removed themselves from decision-making on it, or
  - c) the General Manager is prevented by law from disclosing the information, or
  - d) if responding to the request would, in the General Manager's opinion, result in an unreasonable diversion of staff time and resources.
- 5.12 Where the General Manager refuses to provide information requested by a councillor, they must act reasonably. The General Manager must advise a councillor in writing of their reasons for refusing access to the information requested.
- 5.13 Where a councillor's request for information is refused by the General Manager on the grounds referred to under paragraph c) of clause 5.11, the councillor may instead request the information through a resolution of the council by way of a notice of motion.
- 5.14 Where a councillor persistently makes requests for information which, in the General Manager's opinion, result in a significant and unreasonable diversion of staff time and resources the council may, on the advice of the General Manager, resolve to limit the number of requests the councillor may make.
- 5.15 A report will be provided to councillors regularly (at least quarterly) regarding the performance and efficiency of the councillor requests system against established key performance indicators.

## Part 6 – Access to Council staff

- 6.1 Councillors may directly contact members of staff that are listed at Schedule 1 of this Policy. The General Manager may amend this list at any time and will advise councillors promptly of any changes.
- 6.2 Councillors can contact staff listed at Schedule 1 about matters that relate to the staff member's area of responsibility.
- 6.3 Councillors should as far as practicable, only contact staff during normal business hours.
- 6.4 If councillors would like to contact a member of staff not listed on Schedule 1, they must receive permission from the General Manager.
- 6.5 If a councillor is unsure which authorised staff member can help with their enquiry, they can contact the General Manager or the Councillor Support Officer who will provide advice about which authorised staff member to contact.
- 6.6 In some instances, the General Manager or a member of the Council's executive leadership team will direct a council staff member to contact councillors to provide specific information or clarification relating to a specific matter.
- 6.7 A councillor or member of staff must not take advantage of their official position to improperly influence other councillors or members of staff in the performance of their civic or professional duties for the purposes of securing a private benefit for themselves or for another person.

## Part 7 – Councillor access to council buildings

- 7.1 Councillors are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of Council's buildings during normal business hours for meetings. Councillors needing access to these facilities at other times must obtain approval from the General Manager.
- 7.2 Councillors must not enter staff-only areas of Council buildings without the approval of the General Manager.

## Part 8 – Appropriate and inappropriate interactions

8.1 Examples of appropriate interactions between councillors and staff include, but are not limited to, the following:

- a) councillors and council staff are courteous and display a positive and professional attitude towards one another
- b) council staff ensure that information necessary for councillors to exercise their civic functions is made equally available to all councillors, in accordance with this Policy and any other relevant Council policies
- c) council staff record the advice they give to councillors in the same way they would if it was provided to members of the public
- d) council staff, including Council's executive team members, document councillor requests via the councillor requests system
- e) council meetings and councillor briefings are used to establish positive working relationships and help councillors to gain an understanding of the complex issues related to their civic duties
- f) councillors and council staff feel supported when seeking and providing clarification about council related business
- g) councillors forward requests through the councillor requests system and staff respond in accordance with the timeframes stipulated in this Policy

8.2 Examples of inappropriate interactions between councillors and staff include, but are not limited to, the following:

- a) councillors and council staff conducting themselves in a manner which:
  - i) is contrary to their duties under the *Work Health and Safety Act 2011* and their responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety
  - ii) constitutes harassment and/or bullying within the meaning of clauses 3.7 and 3.9 of the Code of Conduct, or is unlawfully discriminatory
- b) councillors approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy such as, but not limited to, organisational restructures or outsourcing decisions), grievances, workplace investigations and disciplinary matters
- c) staff approaching councillors to discuss individual or operational staff matters (other than matters relating to broader workforce policy such as, but not limited to, organisational restructures or outsourcing decisions), grievances, workplace investigations and disciplinary matters
- d) subject to paragraph b) of clause 5.11, staff refusing to give information that is available to other councillors to a particular councillor
- e) councillors who have lodged an application with the council, discussing the matter with staff in staff-only areas of the council
- f) councillors being overbearing or threatening to staff

- g) staff being overbearing or threatening to councillors
- h) councillors making personal attacks on staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of the Code of Conduct in public forums including social media
- i) councillors directing or pressuring staff in the performance of their work, or recommendations they should make
- j) staff providing ad hoc advice to councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community

8.3 Where a councillor engages in conduct that, in the opinion of the General Manager, puts the health, safety or welfare of staff at risk, the General Manager may restrict the councillor's access to staff.

8.4 Any concerns relating to the conduct of staff under this Policy should be raised with the General Manager.

## Schedule 1 – Authorised staff contacts for councillors (template table)

1. Clause 6.1 of this Policy provides that councillors may directly contact members of staff that are listed below. The General Manager may amend this list at any time.
2. Councillors can contact staff listed below about matters that relate to the staff member's area of responsibility.
3. Councillors should as far as practicable, only contact staff during normal business hours.
4. If councillors would like to contact a member of staff not listed below, they must receive permission from the General Manager.
5. If a councillor is unsure which authorised staff member can help with their enquiry, they can contact the General Manager or the Councillor Support Officer who will provide advice about which authorised staff member to contact.
6. In some instances, the General Manager or a member of the Council's executive leadership team will direct a council staff member to contact councillors to provide specific information or clarification relating to a specific matter.

<b>Authorised staff members name</b>	<b>Position</b>
<i>[Insert staff member's name]</i>	<i>[Insert position title]</i>





# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**


**12 JANUARY 2022**

ITEM 6.10            MODEL POLICY - COUNCILLOR AND STAFF INTERACTION

ATTACHMENT 2    QPRC POLICY - COUNCILLOR AND STAFF INTERACTION



## Councillor and Staff Interaction Policy

<b>Date policy was adopted:</b>	12 August 2020	<b>CEO Signature and date</b>
<b>Resolution number:</b>	PLA116/20	
<b>Next Policy review date:</b>	2024	
<b>Reference number:</b>	52.5.4	
<b>Strategic Pillar</b>	Organisation Capability	13 August 2020
<b>Responsible Branch</b>	Governance and Legal	

## Councillor and Staff Interaction Policy

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### 1. OUTCOMES

- 1.1 Interactions between Councillors and staff are necessary to enable well-informed decision-making and provide a high standard of Council services to the QPRC community.
- 1.2 This Policy sets out the obligations of Councillors in exercising their civic duties by specifically addressing their ability to interact and receive advice from authorised staff.

### 2. POLICY

- 2.1 In accordance with Council's Code of Conduct, Councillors, Administrators and staff are expected to conduct their interactions with each other respectfully, professionally, objectively, honestly and ethically.
- 2.2 All access to staff other than the Chief Executive Officer (CEO) by Councillors is to be authorised by the CEO.
- 2.3 Only those staff nominated by the CEO can provide information and advice to Councillors.
- 2.4 Contact by Councillors with staff other than authorised staff should be through the CEO in the first instance and with the approval of the relevant Portfolio General Manager.

### 3. SCOPE OF THE POLICY

- 3.1 This Policy applies to the QPRC Mayor or Administrator, Councillors and Council employees, including contract and casual employees engaged by Council.

### 4. DEFINITIONS

*Authorised staff* — Staff authorised by the CEO to interact with or provide advice to Councillors, namely the Executive staff (Portfolio General Managers), Governance staff and Communications staff.

### 5. LEGISLATIVE OBLIGATIONS AND/OR RELEVANT STANDARDS

- NSW Local Government Act 1993 (ss.226 and 232)
- NSW Local Government (General) Regulation 2005
- NSW Government Information (Public Access) Act 2009
- NSW Privacy and Personal Information Protection Act 1998
- QPRC Code of Conduct
- QPRC Code of Meeting Practice

### 6. CONTENT

#### 6.1 *Obligations of Councillors*

##### 6.1.1 Councillors or administrators **must not**:

- (a) Direct Council staff other than by giving appropriate direction to the CEO in the performance of Council's functions by way of Council or committee resolution, or by the Mayor or Administrator exercising their power under section 226 of the *NSW Local Government Act 1993*.

## Councillor and Staff Interaction Policy

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- (b) In any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff or a delegate of the Council in the exercise of the functions of the member or delegate.
- (c) Contact a member of the staff of the Council on Council-related business unless in accordance with the policy and procedures governing the interaction of Councillors and Council staff that have been authorised by the Council and the CEO.
- (d) Contact or issue instructions to any of Council's contractors or tenderers, including Council's legal advisers, unless by the Mayor or Administrator exercising their power under section 226 of the Act. This does not apply to the Chair of Council's Audit, Risk and Improvement Committee who may be provided with any information by individual Councillors reasonably necessary for the Committee to effectively perform its functions.
- (e) Councillors must not take advantage of their official position to improperly influence other Councillors or members of Council staff in the performance of their civic or professional duties for the purpose of securing private benefit for themselves or for another person.

### 6.2 **Obligations of Staff**

#### 6.2.1 Members of staff of Council **must**:

- (a) Carry out lawful directions given by any person having authority to give such directions.
- (b) Give effect to the lawful decisions, policies, and procedures of the Council, whether or not the staff member agrees with or approves of them.

6.2.2 In circumstances where staff are unsure whether or not they should provide information to, or respond to a request from a Councillor, they should refer the matter to their relevant Portfolio General Manager or to the CEO, or request that the Councillor make the request through the CEO.

6.2.3 Information provided by authorised staff to any Councillor must be provided to all Councillors.

### 7. **REVIEW**

7.1 This policy will be reviewed every four years or as required by changes to:

- (a) Legislation; or
- (b) Council's functions, structure or activities.

# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.11 COUNCILLOR EXPENSES AND FACILITIES POLICY

ATTACHMENT 1 COUNCILLOR EXPENSES AND FACILITIES POLICY



# Councillor Expenses and Facilities Policy

Date policy was adopted:		CEO Signature and date
Resolution number:		
Next Policy review date:	September 2024	
Reference number:		
Strategic Pillar	Organisational Capability	
Responsible Branch	Workplace & Governance	



## Councillor Expenses and Facilities Policy 2022

### POLICY SUMMARY

This policy enables the reasonable and appropriate reimbursement of expenses and provision of facilities to Councillors to help them undertake their civic duties.

It ensures accountability and transparency, and seeks to align Councillor expenses and facilities with community expectations. Councillors must not obtain private or political benefit from any expense or facility provided under this policy.

The policy has been prepared in accordance with the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation) and complies with the Office of Local Government's Guidelines for the payment of expenses and provision of facilities to mayors and councillors in NSW.

The policy sets out the maximum amounts Council will pay for specific expenses and facilities. Expenses not explicitly addressed in this policy will not be paid or reimbursed.

The main expenses and facilities are summarised in the table below. All monetary amounts are exclusive of GST.

Expense or facility	Maximum amount	Frequency
General travel expenses	Reasonable expenses will be reimbursed per Councillor for official business in NSW and ACT. Cap of \$1,000 per Councillor for ancillary costs (see Clause 8.2)	Per year
Interstate, overseas and long distance intrastate travel expenses	\$10,000 total for all Councillors	Per year
Accommodation and meals	As per the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, adjusted annually	Per meal/night
Professional development, conferences and seminars	\$8,000 per Councillor	Per year
ICT expenses	\$4,000 per Councillor (1 smartphone, 1 laptop per term)	Per term
Carer expenses	\$5,000 per Councillor	Per year
Home office expenses	\$1,000 per Councillor	Per year
Access to facilities in the Councillors' Room	Provided to all Councillors	N/A
Council vehicle and fuel card	Provided to the Mayor	N/A
Reserved parking space at Council's offices	Provided to the Mayor	N/A
Furnished office	Provided to the Mayor	N/A
Number of exclusive staff supporting Mayor and Councillors	One provided to the Mayor and Councillors	N/A

Additional costs incurred by a Councillor in excess of these limits are considered a personal expense that is the responsibility of the Councillor, and may be claimed on their income tax returns.

Councillors must provide claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved.

## **Councillor Expenses and Facilities Policy 2022**

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Detailed reports on the provision of expenses and facilities to Councillors, and their training record will be tabled in open session at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by individual Councillors and as a total for all Councillors.

## Councillor Expenses and Facilities Policy 2022

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### PART A - INTRODUCTION

#### 1. OUTCOMES

- 1.1 The provision of expenses and facilities enables Councillors to fulfil their civic duties as the elected representatives of Queanbeyan-Palerang Regional Council (QPRC).
- 1.2 The community is entitled to know the extent of expenses paid to Councillors, as well as the facilities provided.
- 1.3 The purpose of this policy is to clearly state the facilities and support that are available to Councillors to assist them in fulfilling their civic duties.
- 1.4 Council staff are empowered to question or refuse a request for payment from a Councillor when it does not accord with this policy.
- 1.5 Expenses and facilities provided by this policy are in addition to fees paid to Councillors. The minimum and maximum fees a Council may pay each Councillor are set by the Local Government Remuneration Tribunal as per s.241 of the *Local Government Act 1993*, and are reviewed annually. Council must adopt its annual fees within this set range.

#### 2. POLICY OBJECTIVES

- 2.1 To enable the reasonable and appropriate reimbursement of expenses incurred by Councillors while undertaking their civic duties.
- 2.2 To enable facilities of a reasonable and appropriate standard to be provided to Councillors to support them in undertaking their civic duties.
- 2.3 To ensure accountability and transparency in reimbursement of expenses and provision of facilities to Councillors.
- 2.4 To ensure facilities and expenses provided to Councillors meet community expectations.
- 2.5 To support a diversity of representation.
- 2.6 To fulfil Council's statutory responsibilities.

#### 3. DEFINITIONS

*Accompanying person* — a spouse, partner or de facto, or other person who has a close personal relationship with or provides carer support to a Councillor.

*Appropriate refreshments* — food and beverages, excluding alcohol, provided by Council to support Councillors undertaking official business.

*Act* — the *NSW Local Government Act 1993*.

*CEO/General Manager* — the Chief Executive Officer/General Manager of Council, and includes their delegate or authorised representative.

*Clause* — unless stated otherwise, a reference to a clause is a reference to a clause of this policy.

*Code of Conduct* — the Code of Conduct adopted by Council.

*Councillor* — a person elected or appointed to civic office as a member of the governing body of Council, who is not suspended, and including the Mayor.

## Councillor Expenses and Facilities Policy 2022

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*Expenses* — payments made by Council to reimburse Councillors for reasonable costs or charges incurred or to be incurred for discharging their civic duties. Expenses may be reimbursed to a Councillor or paid directly by Council for a cost that is deemed to be a necessary expense to enable Councillors to perform their civic duties.

*Facilities* — equipment and services that are provided by Council to Councillors to enable them to perform their civic functions with relative ease and at a standard appropriate to their professional role as Councillors.

*Incidental personal use* — use that is infrequent and brief and does not breach this policy or the Code of Conduct.

*Long distance intrastate travel* — travel to other parts of New South Wales (NSW) of more than three hours' duration by private vehicle. (*Note:* For the purposes of this policy, the Australian Capital Territory (ACT) is regarded as being within NSW).

*Maximum limit* — the maximum limit for an expense or facility provided in this policy.

*Official business* — functions that the Mayor or Councillors are required or invited to attend to fulfill their legislated role and responsibilities for Council, or that result in a direct benefit for Council and/or for the local government area, and includes:

- meetings of Council and Committees of the Whole;
- meetings of committees facilitated by Council;
- civic receptions hosted or sponsored by Council;
- meetings, functions, workshops and other events for which attendance by a Councillor has been requested or approved by Council.

*Professional development* — a seminar, conference, training course or other development opportunity relevant to the role of a Councillor or the Mayor.

*Regulation* — the *NSW Local Government (General) Regulation 2005*.

*Year* — the financial year, that is, the 12-months' period commencing on 1 July each year.

#### 4. RELATED LEGISLATION, GUIDANCE AND POLICIES

- the *NSW Local Government Act 1993*, Sections 252 and 253
- the *NSW Local Government (General) Regulation 2005*, Clauses 217 and 403
- the Independent Commission Against Corruption's publication "*No Excuse for Misuse*"
- Guidelines for the payments of expenses and the provision of facilities for Mayors and Councillors in NSW 2009
- Local Government Circular 05-08 - Legal assistance for Councillors and Council employees
- the QPRC Code of Conduct

## Councillor Expenses and Facilities Policy 2022

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### 5. COMMITMENT TO PRINCIPLES

5.1 Council commits to the following principles:

- **Proper conduct:** Councillors and staff acting lawfully and honestly, exercising care and diligence in carrying out their functions.
- **Reasonable expenses:** providing for Councillors to be reimbursed for expenses reasonably incurred as part of their role as Councillor.
- **Participation and access:** enabling people from diverse backgrounds, under-represented groups, those in carer roles and those with special needs to serve as a Councillor.
- **Equity:** there must be equitable access to expenses and facilities for all Councillors.
- **Appropriate use of resources:** providing a clear direction on the appropriate use of Council's resources in accordance with legal requirements and community expectations.
- **Accountability and transparency:** clearly stating and reporting on the expenses and facilities provided to Councillors.

### 6. PRIVATE OR POLITICAL BENEFIT

6.1 Councillors must not obtain private or political benefit from any expense or facility provided under this policy.

6.2 Private use of Council equipment and facilities by Councillors may occur from time to time, for example, telephoning home to advise that a Council meeting will run later than expected.

6.3 Such incidental private use does not require a compensatory payment back to Council.

6.4 Councillors should avoid obtaining any greater private benefit from Council than an incidental benefit. Where there are unavoidable circumstances and more substantial private use of Council facilities does occur, Councillors must reimburse the Council.

6.5 Campaigns for re-election are considered to be a political benefit. The following are examples of what is considered to be a political interest during a re-election campaign.

- production and distribution of election material
- use of Council resources and equipment for campaigning
- use of official Council letterhead, publications, websites or services for political benefit
- fundraising activities of political parties or individuals, including political fundraising events.

## Councillor Expenses and Facilities Policy 2022

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### PART B – EXPENSES

#### 7. GENERAL EXPENSES

- 7.1 All expenses provided under this policy will be for a purpose specific to the functions of holding civic office. Allowances for general expenses are not permitted under this policy.
- 7.2 Expenses not explicitly addressed in this policy will not be paid or reimbursed.

#### 8. SPECIFIC EXPENSES

##### *General travel arrangements and expenses*

- 8.1 All travel by Councillors should be undertaken using the most direct route and the most practicable and economical mode of transport, including the use of a Council pool car, if one is available, as the preferred first option.
- 8.2 Each Councillor may be reimbursed reasonable travel expenses incurred while undertaking official business or professional development, or attending approved conferences and seminars within NSW and ACT. Reimbursement for other costs will be capped at \$1,000 per year for each Councillor for:
- public transport and taxi
  - parking costs
  - tolls
  - ride-share programs.
- 8.3 Allowances for the use of a private vehicle will be reimbursed by kilometre at the rate contained in the current Local Government (State) Award.
- 8.4 Councillors seeking to be reimbursed for use of a private vehicle must keep a log book recording the date, distance and purpose of travel being claimed. Copies of the relevant log book contents must be provided with the claim.

##### *Interstate, overseas and long distance intrastate travel expenses*

- 8.5 Given QPRC's location on the border of the ACT, travel to the ACT will be considered as general travel. Arrangements and expenses for this travel will be governed by Clauses 8.1 – 8.4.
- 8.6 In accordance with Section 6, Council will scrutinise the value and need for Councillors to undertake overseas travel. Councillors should avoid interstate, overseas and long distance intrastate trips unless direct and tangible benefits can be established for the Council and the local community. This includes travel to sister cities and friendship cities.
- 8.7 Total interstate, overseas and long distance intrastate travel expenses for all Councillors will be capped at a maximum of \$10,000 per year. This amount will be set aside in Council's annual budget.
- 8.8 Councillors seeking approval for any interstate and long distance intrastate travel must submit a case to, and obtain the approval of, the CEO prior to travel.
- 8.9 Councillors seeking approval for any overseas travel must submit a case to, and obtain the approval of, a full Council meeting prior to travel.



## Councillor Expenses and Facilities Policy 2022

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- 8.10 The case should include:
- objectives to be achieved in travel, including an explanation of how the travel aligns with current Council priorities and business, the community benefits which will accrue as a result, and its relevance to the exercise of the Councillor's civic duties
  - who is to take part in the travel
  - duration and itinerary of travel
  - a detailed budget including a statement of any amounts expected to be reimbursed by the participant/s.
- 8.11 For interstate and long distance intrastate journeys by air of less than three hours, the class of air travel is to be economy class.
- 8.12 For interstate journeys by air of more than three hours, the class of air travel may be premium economy if provided by the airline.
- 8.13 For international travel, the class of air travel is to be premium economy if available. Otherwise, the class of travel is to be economy.
- 8.14 Bookings for approved air travel are to be made through the CEO's office.
- 8.15 For air travel that is reimbursed as Council business, Councillors will not accrue points from the airline's frequent flyer program as this is considered a private benefit.

### ***Travel expenses not paid by Council***

- 8.16 Council will not pay any traffic or parking fines or administrative charges for road toll accounts.

### ***Accommodation and meals***

- 8.17 In circumstances where it would introduce undue risk for a Councillor to travel to or from official business in the late evening or early morning, reimbursement of costs for accommodation and meals on the night before or after the meeting may be approved by the CEO. This includes where a meeting finishes later than 9.00pm or starts earlier than 7.00am and the travel involved would exceed one hour.
- 8.18 Council will reimburse costs for accommodation and meals while Councillors are undertaking prior approved travel or professional development outside the ACT region.
- 8.19 The daily limits for accommodation and meal expenses within Australia are to be consistent with those set out in Part B Monetary Rates of the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as adjusted annually (**see Schedule 1**).
- 8.20 The daily limits for accommodation and meal expenses outside Australia are to be determined in advance by the CEO.
- 8.21 Where a spouse/partner accompanies a Councillor who is attending a function on official business, all costs incurred for the spouse/partner are to be the responsibility of the Councillor.
- 8.22 Councillors will not be reimbursed for alcoholic beverages.



## **Councillor Expenses and Facilities Policy 2022**

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### ***Refreshments for Council-related meetings***

- 8.23 Appropriate refreshments will be available for Council meetings, Council Committee meetings, Councillor briefings, approved meetings and engagements, and official Council functions as approved by the CEO.
- 8.24 As an indicative guide for the standard of refreshments to be provided at Council-related meetings, the CEO must be mindful of Part B Monetary Rates of the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as adjusted annually (see **Schedule 1**).

### ***Professional Development***

- 8.25 Council will set aside \$8,000 per Councillor annually in its budget to facilitate professional development of Councillors through programs, training, education courses and membership of professional bodies, and attendance at approved conferences.
- 8.26 In the first year of a new Council term, Council will provide a comprehensive induction program for all Councillors based on guidelines issued by the Office of Local Government (OLG). The cost of the induction program will be in addition to the ongoing professional development funding.
- 8.27 Annual membership of professional bodies will only be covered where the membership is relevant to the exercise of the Councillor's civic duties; the Councillor actively participates in the body and the cost of membership is likely to be fully offset by savings from attending events as a member.
- 8.28 Approval for professional development activities is subject to a prior written request to the CEO, outlining the:
- details of the proposed professional development
  - relevance to Council's priorities and business
  - relevance to the exercise of the Councillor's civic duties.
- 8.29 In assessing a Councillor's request for a professional development activity, the CEO must consider the factors set out in Clause 8.27, as well as the cost of the professional development in relation to the Councillor's remaining budget.

### ***Conferences and seminars***

- 8.30 Council is committed to ensuring its Councillors are up-to-date with contemporary issues facing Council, the community, and local government in NSW.
- 8.31 Council will set aside a total amount of \$80,000 annually in its budget to facilitate Councillor attendances at training, conferences and seminars (per Clause 8.25). This allocation is for all Councillors. The CEO will ensure that access to expenses relating to conferences and seminars is distributed equitably.
- 8.32 The Mayor (or Deputy Mayor in their absence) is authorised to attend the LGNSW Annual Conference and the Australian Local Government Association National General Assembly, and be Council's voting delegate for all debating sessions.
- 8.33 For all other conferences and seminars, approval to attend is subject to a written request to the CEO. In assessing a Councillor's request, the CEO must consider factors including the:
- relevance of the topics and presenters to current Council priorities and business and the exercise of the Councillor's civic duties
  - cost of the conference or seminar in relation to the total remaining budget.

## Councillor Expenses and Facilities Policy 2022

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- 8.34 Council will meet the reasonable cost of registration fees, transport and accommodation associated with attendance at conferences approved by the CEO/General Manager. Council will also meet the reasonable cost of meals when they are not included in the conference fees. Reimbursement for accommodation and meals not included in the conference fees will be subject to Clauses 8.18 – 8.21.

### ***Information and communications technology (ICT) expenses***

- 8.35 Council will provide appropriate ICT devices and services to each Councillor. This includes a mobile phone and laptop, mobile phone and laptop services and data, and access to a secure portal.
- 8.36 Training in the use of Microsoft Teams and Microsoft Outlook will be provided for each Councillor.

### ***Special requirement and carer expenses***

- 8.37 Council encourages wide participation and interest in civic office. It will seek to ensure that Council's premises and associated facilities are accessible, including provision for sight or hearing impaired Councillors and those with other disabilities.
- 8.38 Transport provisions outlined in this policy will also assist Councillors who may be unable to drive a vehicle.
- 8.39 In addition to the provisions above, the CEO may authorise the provision of reasonable additional facilities and expenses in order to allow a Councillor with a disability to perform their civic duties.
- 8.40 A Councillor who is the principal carer of a child or other elderly, disabled and/or sick immediate family member will be entitled to reimbursement of carer's expenses up to a maximum of \$5,000 per annum for attendance at official business, plus reasonable travel from their principal place of residence.
- 8.41 Childcare expenses may be claimed for children up to and including the age of 16 years where the carer is not a relative.
- 8.42 In the event of caring for an adult person, Councillors will need to provide suitable evidence to the CEO that reimbursement is applicable. This may take the form of advice from a medical practitioner.

### ***Home office expenses***

- 8.43 Each Councillor may claim to be reimbursed up to \$1,000 per year for costs associated with the maintenance of a home office, such as minor items of consumable stationery and printer ink cartridges.

## **9. INSURANCES**

- 9.1 In accordance with Section 382 of the *Local Government Act 1993*, Council is insured against public liability and professional indemnity claims. Councillors are included as a named insured on this policy.
- 9.2 Insurance protection is only provided if a claim arises out of, or in connection with, the Councillor's performance of their civic duties, or exercise of their functions as a Councillor. All insurances are subject to any limitations or conditions set out in the policies of insurance.
- 9.3 Council shall pay the insurance policy excess in respect of any claim accepted by Council's insurers, whether defended or not.

## Councillor Expenses and Facilities Policy 2022

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- 9.4 Appropriate travel insurances will be provided for any Councillors travelling on approved interstate and overseas travel on Council business.

### 10. LEGAL ASSISTANCE

- 10.1 Council may, if requested, indemnify or reimburse the reasonable legal expenses of:
- a Councillor defending an action arising from the performance in good faith of a function under the *Local Government Act 1993*, provided that the outcome of the legal proceedings is favourable to the Councillor
  - a Councillor defending an action in defamation, provided the statements complained of were made in good faith in the course of exercising a function under the Act and the outcome of the legal proceedings is favourable to the Councillor
  - a Councillor for proceedings before an appropriate investigative or review body, provided the subject of the proceedings arises from the performance in good faith of a function under the Act and the matter has proceeded past any initial assessment phase to a formal investigation or review, and the investigative or review body makes a finding substantially favourable to the Councillor.
- 10.2 In the case of a code of conduct complaint made against a Councillor, legal costs will only be made available where the matter has been referred by the CEO to a conduct reviewer and the conduct reviewer has commenced a formal investigation of the matter and makes a finding substantially favourable to the Councillor. The Councillor should formally request in writing to the CEO consideration of reimbursement of legal expenses before committing to seek legal advice to enable reimbursement of reasonable expenses, should the finding be favourable to the Councillor.
- 10.3 Legal expenses incurred in relation to proceedings arising out of the performance by a Councillor of their functions under the Act are distinguished from expenses incurred in relation to proceedings arising merely from something that a Councillor has done during their term in office. For example, expenses arising from an investigation as to whether a Councillor acted corruptly would not be covered by this section.
- 10.4 Council will not meet the legal costs:
- of legal proceedings initiated by a Councillor under any circumstances
  - of a Councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation
  - for legal proceedings that do not involve a Councillor performing their role as a Councillor.
- 10.5 Reimbursement of expenses for reasonable legal expenses must have Council's approval by way of a resolution at a Council meeting prior to costs being incurred.

## **Councillor Expenses and Facilities Policy 2022**

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### **PART C – FACILITIES**

#### **11. GENERAL FACILITIES FOR ALL COUNCILLORS**

##### ***Facilities***

- 11.1 Council will provide the following facilities to Councillors to assist them to discharge their civic duties effectively:
- a Councillor room appropriately furnished to include telephone, photocopier, shredder, printer, desk, computer terminals, pigeon holes;
  - the CEO's meeting room for meetings between Councillors and constituents. Councillors should book this room in advance through the Executive Assistant to the CEO.
  - a name badge which may be worn at official functions, indicating that the wearer holds the office of a Councillor and/or Mayor or Deputy Mayor.
- 11.2 Councillors may book meeting rooms for official business in a specified Council building at no cost. Rooms may be booked through a specified officer in the Mayor's office or other specified staff member.
- 11.3 The provision of facilities will be of a standard deemed by the CEO to be appropriate for the purpose.

##### ***Stationery***

- 11.4 Council will provide the following stationery to Councillors each year:
- letterhead, to be used only for correspondence associated with civic duties
  - business cards

##### ***Administrative support***

- 11.5 Council will provide administrative support to Councillors to assist them with their civic duties only. Administrative support may be provided by staff in the Mayor's office or by a member of Council's Governance staff as arranged by the CEO or their delegate.
- 11.6 As per Section 6, Council staff are expected to assist Councillors with civic duties only, and not assist with matters of personal or political interest, including campaigning.

#### **12. ADDITIONAL FACILITIES FOR THE MAYOR**

- 12.1 Council will provide to the Mayor a maintained vehicle to a similar standard of other Council vehicles, with a fuel card. The vehicle will be supplied for use on business, professional development and attendance at the Mayor's office.
- 12.2 The Mayor must keep a log book setting out the date, distance and purpose of all travel. This must include any travel for private benefit. The log book must be submitted to Council on a monthly basis.
- 12.3 The Mayoral Allowance will be reduced to cover the cost of any private travel recorded in the log book, calculated on a per kilometre basis by the rate set by the Local Government (State) Award.
- 12.4 A parking space at Council's offices will be reserved for the Mayor's Council-issued vehicle for use on official business, professional development and attendance at the Mayor's office.



## Councillor Expenses and Facilities Policy 2022

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- 12.5 Council will provide the Mayor with a furnished office incorporating a computer configured to Council's standard operating environment, telephone and meeting space.
- 12.6 In performing their civic duties, the Mayor will be assisted by a small number of staff providing administrative and secretarial support, as determined by the CEO.
- 12.7 The number of exclusive staff provided to support the Mayor and Councillors will not exceed two full-time equivalents.
- 12.8 As per Section 6, staff in the Mayor's office are expected to work on official business only, and not for matters of personal or political interest, including campaigning.

### PART D – PROCESSES

#### 13. APPROVAL, PAYMENT AND REIMBURSEMENT ARRANGEMENTS

- 13.1 Expenses should only be incurred by Councillors in accordance with the provisions of this policy.
- 13.2 Approval for incurring expenses, or for the reimbursement of such expenses, should be obtained before the expense is incurred.
- 13.3 Approval up to the maximum limits specified in this policy may be sought for the following, after the expense has been incurred:
- local travel relating to the conduct of official business
  - carer costs.
- 13.4 Claims for reimbursement of travel costs must be made on the prescribed form (see **Schedule 2**). Claims for care-related expenses must be made on the prescribed form (see **Schedule 3**).
- 13.5 Final approval for payments made under this policy will be granted by the CEO or their delegate.

#### *Direct payment*

- 13.6 Council may approve and directly pay expenses. Requests for direct payment must be submitted to the Service Manager & Governance for assessment against this policy using the prescribed form (see **Schedule 4**), with sufficient information and time to allow for the claim to be assessed and processed.

#### *Reimbursement*

- 13.7 All claims for reimbursement of expenses other than travel incurred must be made on the prescribed form (see **Schedule 5**), supported by appropriate receipts and/or tax invoices and be submitted to the Service Manager Workplace & Governance.
- 13.8 If no receipts are attached to the claim, no reimbursement will be made.

#### *Advance payment*

- 13.9 Council may pay a cash advance for Councillors attending approved conferences, seminars or professional development.
- 13.10 The maximum value of a cash advance is \$300 per day of the conference, seminar or professional development to a maximum of \$1,500.

## Councillor Expenses and Facilities Policy 2022

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- 13.11 Requests for advance payment must be submitted to the Service Manager Workplace & Governance for assessment against this policy using the prescribed form (see **Schedule 6**) with sufficient information and time to allow for the claim to be assessed and processed.
- 13.12 Councillors must fully reconcile all expenses against the cost of the advance within one month of incurring the cost and/or returning home. The prescribed form must be used (see **Schedule 7**) and should include providing to Council:
- a full reconciliation of all expenses including appropriate receipts and/or tax invoices
  - reimbursement of any amount of the advance payment not spent in attending to official business or professional development.

### ***Notification***

- 13.13 If a claim is approved, Council will make payment directly or reimburse the Councillors through Accounts Payable.
- 13.14 If a claim is refused, Council will inform the Councillor in writing that the claim has been refused and the reason for the refusal.

### ***Reimbursement to Council***

- 13.15 If Council has incurred an expense on behalf of a Councillor that exceeds a maximum limit, exceeds reasonable incidental private use, or is not provided for in this policy:
- Council will invoice the Councillor for the expense
  - the Councillor will reimburse Council for that expense within 14 days of the invoice date.
- 13.16 If the Councillor cannot reimburse Council within 14 days of the invoice date, they are to submit a written explanation to the CEO. The CEO may elect to deduct the amount from the Councillor's monthly allowance.

### ***Timeframe for reimbursement***

- 13.17 Unless otherwise specified in this policy, Councillors must provide all claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved.

## **14. DISPUTES**

- 14.1 If a Councillor disputes a determination under this policy, the Councillor should discuss the matter with the CEO.
- 14.2 If the Councillor and the CEO cannot resolve the dispute, the Councillor may submit a notice of motion to a Council meeting seeking to have the dispute resolved.

## **15. RETURN OR RETENTION OF FACILITIES**

- 15.1 All unexpended facilities or equipment supplied under this policy are to be relinquished immediately upon a Councillor or Mayor ceasing to hold office or at the cessation of their civic duties.
- 15.2 Should a Councillor wish to keep any equipment allocated by Council, then this policy enables the Councillor to make application to the CEO to purchase any such equipment. The CEO will determine an agreed fair market price or written-down value for the item of equipment.

## **Councillor Expenses and Facilities Policy 2022**

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- 15.3 The prices for all equipment purchased by Councillors under Clause 15.2 will be recorded in Council's annual report.

### **16. PUBLICATION**

- 16.1 This policy will be published on Council's website.

### **17. REPORTING**

- 17.1 Council will report on the provision of expenses and facilities to Councillors as required in the Act and Regulations.
- 17.2 Detailed reports on the provision of expenses and facilities to Councillors will be publicly tabled at a Council meeting every six months and published in full on Council's website. These reports will include expenditure summarised by individual Councillors and as a total for all Councillors.

### **18. AUDITING**

- 18.1 The operation of this policy, including claims made under the policy, will be included in Council's audit program and an audit undertaken at least every two years.

### **19. BREACHES**

- 19.1 Suspected breaches of this policy are to be reported to the CEO.
- 19.2 Alleged breaches of this policy shall be dealt with by following the processes outlined for breaches of the Code of Conduct, as detailed in the Code and in the Procedures for the Administration of the Code.



## Councillor Expenses and Facilities Policy 2022

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### Schedule 1

#### *Allowances under the Local Government (State) Award 2018*

Meal Allowances	Per Day
Breakfast	\$29.20
Lunch	\$32.85
Dinner	\$56.00
Incidental Expenses	Per Day
	\$20.60
Vehicle Allowances	
Vehicle Size	Per Km
Under 2.5 litre	68 cents
Over 2.5 litre	78 cents

**Schedule 2**  
*Prescribed form for reimbursement of travel expenses incurred by Councillors*



**Councillors' Travel Expenses Claim Form**

*Please Note: Travel claims may only be made for meetings that are held outside your town of residence.*

**NAME:** *(please print)* \_\_\_\_\_

DATE	MEETING - TYPE/LOCATION	TRAVEL FROM/TO - FROM/TO	DISTANCE	ENGINE

**CERTIFICATION**

I hereby certify that in accordance with the provisions of Section 252 of the *Local Government Act 1993* and Council's Policy for the "Payment of Expenses and Provision of Facilities for the Mayor and Councillors" these expenses were incurred in the conduct of approved Council business and are claimed for the dates shown above.

Signed \_\_\_\_\_

Date ...../...../.....

### Schedule 3



#### CARE-RELATED EXPENSES REQUEST FORM

1. Councillor's name (please print).....
  2. Is the Councillor the subject of the application? ☐ Yes ☐ No  
  
If yes, does the application relate to a Councillor with a disability as defined under the Federal *Disability Discrimination Act 1992*? ☐ Yes ☐ No
  3. Is the application being made under the NSW *Carer Recognition Act 2010*? ☐ Yes ☐ No  
  
If yes, are there extenuating circumstances (please tick all that apply)  
    - ( ) unavailability of usual carer
    - ( ) unscheduled meeting
    - ( ) short notice period (< 7 days)
    - ( ) Council-required travel
    - ( ) other (please specify)  
.....  
.....
  4. What type of meeting/forum does the request relate to? (please tick)  
    - ( ) Council's Ordinary meeting
    - ( ) Council's extraordinary meeting
    - ( ) scheduled s.355 or locality committee meeting
    - ( ) Council's workshop/briefing/site visit
    - ( ) training
    - ( ) other (please specify)  
.....
  5. Is overnight travel of one or more nights required to facilitate attendance? ☐ Yes ☐ No
  6. What was the notice period for this meeting? .....
  7. What is the period for which care is requested? .....
  8. What is the cost incurred or the anticipated future cost? \$.....
  9. Please summarise the circumstances and basis for the application .....  
.....  
.....
- Signed.....
- Date ...../...../.....

## Councillor Expenses and Facilities Policy 2022

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### Schedule 4

*Prescribed form for requesting direct payment by Council of expenses incurred by Councillors*



### DIRECT PAYMENT REQUEST FORM

Councillor's name (please print).....

Conference/Event.....

.....

To be held at (name of venue and address).....

.....

Date/s of conference.....

Payment due by.....

In accordance with QPRC Councillor Expenses and Facilities Policy under s.252 of the *Local Government Act 1993*, I hereby request Council's direct payment of the following expenses associated with my attendance at the above conference/event:

Registration at conference/dinner:        \$.....

Accommodation and parking (if separate from conference registration) at

.....

.....for

the following dates.....

Total amount requested:    \$.....

I hereby certify that Council or the CEO has approved my attendance at the conference/event.

Signed.....

Date ...../...../.....



## Schedule 5

*Prescribed form for claims for reimbursement of general expenses*



### Meeting/Conference/Workshop/Training Expenses Claim Form

*Please Note: All receipts MUST be attached to this claim form.*

COUNCILLOR NAME: (please print) \_\_\_\_\_

EVENT (meeting/conference/workshop/training etc) \_\_\_\_\_

held at \_\_\_\_\_ Date (start/finish) \_\_\_\_\_

CLAIM	Date .... / .... / ....	Date .... / .... / ....	Date .... / .... / ....	Date .... / .... / ....
Breakfast				
Lunch				
Dinner				
Taxi fare				
Parking				
Road Toll				
Refreshment				
Accommodation at: .....				
Childcare				
Other (please provide details)				
<b>TOTAL</b>				

#### CERTIFICATION

I hereby certify that in accordance with the provisions of Section 252 of the *Local Government Act 1993* and Council's Policy for the "Payment of Expenses and Provision of Facilities for the Mayor and Councillors", these expenses were incurred in the conduct of approved Council business and are claimed for the dates shown above. **I accept that, if no receipts are attached for any claim, reimbursement will NOT be made.**

Signed ..... Date ..... / ..... / .....

## Schedule 6

*Prescribed form for requesting an advance payment*



### ADVANCE PAYMENT REQUEST FORM

Councillor's name (please print).....

Conference.....

.....

To be held at.....

Date/s of conference.....

In accordance with QPRC Councillor Expenses and Facilities Policy under s.252 of the *Local Government Act 1993*, I hereby apply for an advance payment of \$..... for expenses likely to be incurred in connection with my attendance at the above conference.

Signed.....

Date ...../...../.....

## Councillor Expenses and Facilities Policy 2022

### Schedule 7

*Prescribed form for reconciliation against the cost of the advance payment*



#### RECONCILIATION OF INCIDENTAL EXPENSES PAID IN ADVANCE

Amount received from Council in advance: \$.....

Expenses as itemised below with dockets:

Item	Amount

Total amount of items spent: \$.....

Reimbursement due to Council: \$.....

Reimbursement due to Councillor: \$.....

Name (please print).....

Signature.....

Date .....





# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.14      COMMITTEE FRAMEWORK, DELEGATES AND  
REPRESENTATIVES

ATTACHMENT 1    COMMITTEES FRAMEWORK

**6.14 Committee Framework, Delegates and Representatives**  
**Attachment 1 - Committees Framework (Continued)**

**Committees - Function based**

Title	QPRC Facilities Committee	QPRC Reserves Committee	QPRC Area Committee	QPRC Special Purpose Committee	Advisory Committee/Boards	Statutory Committee/Boards	Regional Panels
Councillor/s	s355 community/staff (name) (name)	s355 community/staff (name) (name)	councillor and community (name) (name)	councillor and community (name) (name)	councillor, staff and community (name) (name)	councillor and stakeholder (name) (name)	councillor and staff (name) (name)
Membership	1 member from each s355 Committee				appointed members 1 (community/NFP/SME/agency) 2 invited members (community) 3	1 appointed members (Minister) 2 councillor	1 appointed members (Minister) 2 councillor/staff
Purpose	Considering/recommending plan of management; and annual maintenance, fees and improvements to facility	Considering/recommending plan of management; and annual maintenance, fees and improvements to reserve	Considering/recommending studies and management plan; and annual maintenance and improvements program	Considering studies; and recommending management plan;	specific	statutory	collaboration
Title	(name) s355 Committee	(name) s355 Committee					
Community members	(name/s) (name/s)	(name/s) (name/s)	(name/s) (name/s)	(name/s) (name/s)			
Purpose	Managing bookings, maintenance, fund raising						
	<b>FACILITY</b> Braidwood Gymnasium Committee Braidwood National Theatre Community Centre Committee Bungendore School Hall Management Committee Bungendore School of Arts Management Committee Fernleigh Park Hall Committee Hoskinstown Community Hall Committee Les Reardon Reserve Facility Management Committee Mick Sherd Oval Facility Committee Wamboin Hall Management Committee Braidwood Saleyards	<b>RESERVE</b> Braidwood Recreation Ground Committee Braidwood Historic Cemetery Committee Burra and Cargill Park Management Committee Canning Close Reserve Committee Greenways Management Committee Nerriga Sports Ground Reserve Committee Royalla Common Committee	<b>AREA</b> Araluen Area Committee Captains Flat Area Committee Braidwood Area Committee Bungendore Area Committee Burra Area Committee Wamboin Area Committee	<b>SPECIAL PURPOSE</b> Floodplain Risk Management Committee (town) Braidwood Showground Reserve Trust Committee Queanbeyan Trust Committee	Audit, Risk and Improvement Committee Australia Day and Community Awards Committee Australia Day Organising Committee Braidwood Heritage Advisory Committee Bungendore War Memorial Committee Bungendore Town Centre Committee CEO Performance Review Committee Cultural Development and Public Arts Advisory Committee Dangerous Dog Panel Disability Access Economic Advisory Panel Environment and Sustainability Advisory Committee First Nations Consultative Committee Heritage Advisory Committee Queanbeyan Showground Advisory Committee Sister City Committee Queanbeyan Sporting Gallery Committee Q Advisory Board Queanbeyan-Palerang Library Service – NSW Public Library Zone Sports Council Tourism Advisory Board Youth Advisory Council	Dargues Reef Community Consultative Committee Integrated Water Cycle Management Project Reference Group Lake George District Liaison Committee Lake George Bush Fire Management Committee Lake George Emergency Management Committee Local Traffic Committee Holcim Quarry Consultative Committee	ACT-NSW Cross Border Illegal Dumping Steering Committee Canberra Airport Community Aviation Consultation Group Canberra Region Joint Organisation (CRJO) Regional Cities NSW Community Safety Precinct Committee – Monaro Local Area Command ACT and Region Catchment Management Coordination Group South-East Weight of Loads Group South East Australia Transport Strategy (SEATS) Southern Joint Regional Planning Panel Southern Tablelands Arts Board Upper Murrumbidgee Catchment Network WaterNSW (Local Government Reference Panel) Woodswain Eco-Predict Community Liaison Committee (Voolia)

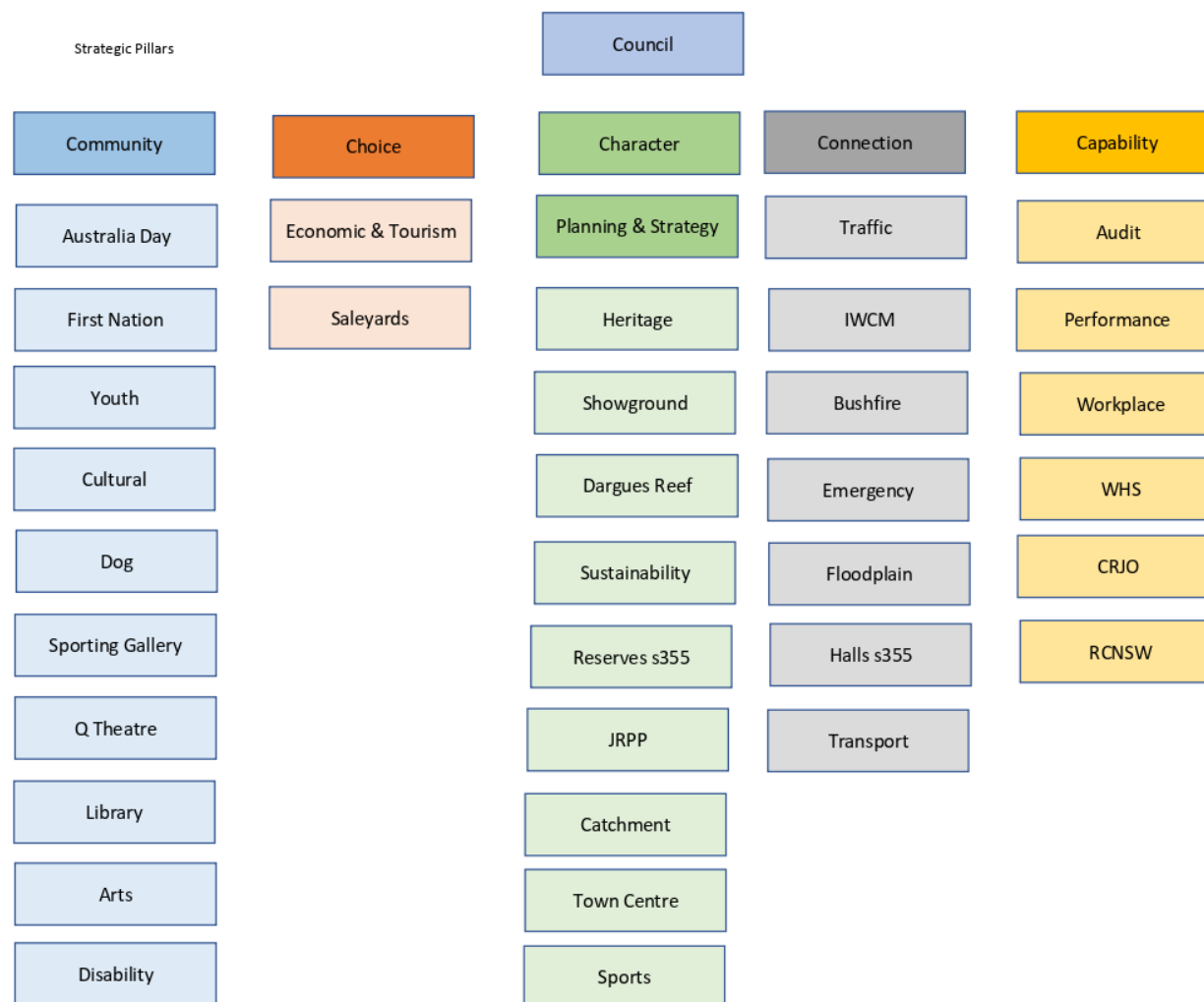
# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.14      COMMITTEE FRAMEWORK, DELEGATES AND  
REPRESENTATIVES

ATTACHMENT 2      COMMITTEE - REPORTING PILLARS



# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.14      COMMITTEE FRAMEWORK, DELEGATES AND  
REPRESENTATIVES

ATTACHMENT 3    QPRC COMMITTEES - TERMS OF REFERENCE



## **QPRC ACCESS COMMITTEE**

### **TERMS OF REFERENCE**

#### **1. Background**

At the Council meeting of 24 May 2017, Council adopted a Disability Inclusion Action Plan. One of the Key Actions identified in this Plan is to 'establish an Access Committee'. The purpose of a QPRC Access Committee is to provide informed advice to Council on the development, implementation, monitoring and review of policy, strategies and plans to advance the accessibility of the area and the inclusion of people with a disability.

#### **2. Role**

The role of the committee is to:

- Assist Council to identify and remove barriers preventing the participation of people with disability in the life of the Queanbeyan-Palerang LGA.
- Identify issues of concern and impacts relating to people with disabilities living in Queanbeyan-Palerang
- Provide advice to relevant sections of Council on matters of access and inclusion of people with disability.
- Advise and make recommendations to Council on matters relating to access for people with disabilities to Council facilities and services and within the community generally.
- Input into the development of strategies to increase access and inclusion within the Queanbeyan-Palerang LGA.
- Oversee the implementation and review of actions identified in Council's Disability Action Plan.

#### **3. Committee Operation**

- The QPRC Access Committee is convened by Council's Service Manager Community & Culture or delegated officer who will attend meetings as a resource person and will be responsible for taking and distributing minutes, coordinating the agenda, inviting relevant Council officer's to attend in relation to agenda items, arranging the meeting venue, organising refreshments, and coordinating any assistance required by members (with disability) to participate.
- Minutes of the Committee will be reported to Council for endorsement.
- Membership of the committee will consist of seven members:
  - One Councillor who will act as Chair
  - People living or working with a disability from within the LGA – two representatives
  - Family members of those living with disability – two representatives
  - Agencies providing services to people with a disability – two representatives

- Relevant staff will attend meetings as deemed appropriate by the Service Manager Community & Culture to provide advice to assist with the Committee's deliberations.
- Membership of the committee will be determined every two years, with the exception of Councillor Representatives who will be appointed every September.
- Members are appointed in an individual capacity based on skills and experience and not as representative of a particular group.

#### **4. Selection of Committee Members**

Membership of the Committee will be by expression of via public advertisement. Applicants will be asked to outline their interest in one or more of the following areas;

- Built environment and urban planning including public domain, public amenities and services
- Information, media and communications
- Economic participation
- Housing
- Transport
- Arts, culture
- Recreation
- Civic participation
- Events and festivals
- Legislation underpinning access and inclusion (including the DDA and UN CRPD)

In addition, any skills or experience is also valued in areas such as;

- Strategic planning
- Change management
- Policy development (including disability policy reforms)
- Consultation
- Community education

#### **5. Meetings**

Meetings will be held on a quarterly basis to be determined by the Committee at its inaugural meeting.

A quorum for the meeting will be four.





## **QPRC AUSTRALIA DAY ORGANISING COMMITTEE**

### **TERMS OF REFERENCE**

#### **1. Role**

To organise with the assistance of community groups Australia Day Celebrations each year.

#### **2. Membership**

Membership of the Committee comprises:

- Council delegate
- Portfolio General Manager Community Choice
- Service Manager Culture & Recreation
- Up to Five (5) Community Group Representatives from groups such as Legacy, Rotary, Red Cross, Scouts and Lions Clubs

#### **3. Meetings**

- Meetings will be on a as required basis commencing up to 6 months leading up to January.
- Meetings will be reported to Council for endorsement

#### **4. Secretarial Support**

The Service Manager Culture & Recreation will provide secretarial support to the Committee.

#### **5. Quorum**

A quorum for the Committee will be four members.



## QUEANBEYAN-PALERANG REGIONAL COUNCIL CONSULTATIVE COMMITTEE ON ABORIGINAL ISSUES

### TERMS OF REFERENCE

#### 1. Aim

To provide a vital link between Queanbeyan-Palerang Regional Council and the local Aboriginal community, respecting the Aboriginal community's rights to self-determination and community empowerment for the enrichment of the Queanbeyan-Palerang community as a whole.

#### 2. Objectives

- The primary objective of the committee is to provide advice to Council in order to encourage and facilitate the development of the Queanbeyan-Palerang Aboriginal community.
- To support and co-operate with Aboriginal people and other organisations committed to increasing reconciliation and respect for Aboriginal culture and history, both past and present.
- To promote and advocate for Aboriginal culture in the everyday life of the Queanbeyan-Palerang community through the provision of appropriate signage, artwork, information and cultural awareness programs.
- To encourage and facilitate Council and community groups to provide or obtain funding for programs which will benefit the local Aboriginal community.
- To provide advice about Council's programs, services and facilities and to participate on Council's committees/working parties to ensure that they are accessible to and appropriate for the local Aboriginal community.
- To promote and encourage employment and career development opportunities for Aboriginal people within Council.
- To develop and support appropriate celebrations of Aboriginal culture in conjunction with Reconciliation Week, NAIDOC Week, Heritage Week, Australia Day and other relevant events.
- To encourage Aboriginal people to participate and become involved in the political processes of Council.

#### 3. Quorum

Committee membership to comprise a quorum of five members, with at least three of those being members of the Aboriginal community.

*\* Please note the numbers for the quorum are due to the fluid nature of organisational members on the committee.*

#### 4. Councillor Representatives

Two Councillor representatives elected by Queanbeyan-Palerang Regional Council.

#### 5. Council Staff Representation (non-voting delegates)

- Manager Community and Cultural Development
- Aboriginal Community Liaison and Projects Officer

- Other officers as invited

#### **6. Community Representatives**

- Ngambri representative
- Ngunnawal representative
- Walbunga representative
- Local Aboriginal Community
- Invitations can be extended to other individuals to attend

#### **7. Organisational Representatives**

- Ngambri Local Aboriginal Land Council
- Pejar Local Aboriginal Land Council
- Mogo Local Aboriginal Land Council
- Ulladulla Local Aboriginal Land Council
- Batemans Bay Local Aboriginal Land Council
- Cobowra Local Aboriginal Land Council
- Bodalla Local Aboriginal Land Council
- Southern NSW Local Health District
- Centrelink
- Department of Prime Minister and Cabinet
- Schools as Community Centres
- Barnardos Queanbeyan
- Monaro Local Area Command
- Queanbeyan Schools
- Braidwood School
- Captains Flat
- Bungendore School
- Queanbeyan Aboriginal Education Consultation Group
- Department of Ageing, Disability and Homecare
- Department of Juvenile Justice
- Burrunju Aboriginal Corporation
- Department of Housing
- Department of Education and Training
- Your Place Housing
- Munjuwa Aboriginal Corporation
- Habitat Personnel
- Any other service providers or Aboriginal peoples/communities.
- Invitations can be extended to other organisations to send representatives.

*Please note each organisation is asked to nominate a representative and an alternate delegate.*

#### **8. Meeting Frequency and Details**

Meetings will be held bi-monthly on a day and time mutually agreed by the committee. Changes to the day and time of meetings must be agreed by formal resolution of the committee. Each bimonthly meeting of the committee will be a formal meeting.

The Chairperson is empowered to call extraordinary meetings as required. The Chairperson will be one of the nominated Councillors.

Meetings will take place in a mutually agreed location, at either Queanbeyan, Bungendore and Braidwood as decided by the committee with the venue for the next scheduled meeting to be resolved prior to the end of each meeting.

Participation on the committee is on a voluntary basis and members will not receive any remuneration for their time and participation.

Council however will provide for the payment of travel expenses to members of the QPRC Consultative Committee in line with the Payment of Expenses for Councillors Policy being for meetings held in townships which are not their community of representation as per the details and conditions set out in the Council Report of 28 June 2017 (Item 8.2).

Members of the committee are required to act in accordance with the NSW Office of Local Government's MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW (November 2015).

#### **Working groups/teams**

Working groups may be established by the committee to work towards achieving specific aims and objectives. The working groups will comprise committee members and others required to achieve the desired outcomes. Working groups may include existing working groups to avoid duplication, possibly with additional relevant members. Working groups and teams report back to the Committee and, therefore, their reports will be included in the reports to Council.



## QPRC CULTURAL DEVELOPMENT AND PUBLIC ARTS ADVISORY COMMITTEE

### TERMS OF REFERENCE

#### 1. Background

Queanbeyan-Palerang Regional Council has a strong commitment to support and promote the development of arts and culture in its local government area.

An amalgamated Cultural Development and Public Art Advisory Council was established by the former Queanbeyan City Council in September 2014. This combined committee has been carried forward into QPRC's committee structure to provide advice to Council and support for activities and collaboration that inspires and strengthens community cultural development in a range of art and cultural genres throughout Queanbeyan-Palerang region.

#### 2. Council's Objectives for Cultural Development and Public Art

The *Queanbeyan Cultural Plan 2014 - 2017* has been developed to assist Council to build on the many cultural initiatives already underway in the City, and to respond effectively to the emerging cultural needs of the broader community. This Cultural Plan is currently under review to provide for a wider Queanbeyan-Palerang outlook.

Culture defines who we are, what we do and what is important to us. It reflects the identity of the local community, the diversity of its people and their rich histories and heritage. It is recognised that culture plays an important role in building strong, vibrant and cohesive communities, and contributes strongly to the local identity, sense of place, amenity and quality of life. The culture of Queanbeyan-Palerang is regarded as spirited, down to earth, unpretentious, self-respecting with a strong, honest character.

The plan is linked into Council's broader Integrated Planning processes, and it identifies sustainable cultural strategies for Council to consider and integrate into its overall planning functions with the aim of:

1. To Building on the success of the Public Art programme with more public art projects to be included in the City Centre redevelopments and across the region;
2. Foster a strong community involvement in developing cultural and arts projects, such as local mosaics and murals;
3. Develop a public art programme to enrich and enhance community spaces in the newly developed areas such as Googong; and
4. Work more closely with the business community to develop cultural and arts projects for the Queanbeyan-Palerang Region.

The *Cultural Plan 2014-17* identified areas of focus around:

- Council Cultural Support;
- Cultural Identify and Diversity;
- Aboriginal Culture;
- Public Art; and

- Cultural Economy and Cultural Tourism.

It is envisaged that these areas of focus will continue under the next iteration of the Cultural Plan

### **3. The Role of the QPRC Cultural Development and Public Art Advisory Committee:**

- To support the implementation of Council's Cultural Plan, and report to Council on a quarterly basis on progress;
- To advise Council in relation to art and cultural initiatives provided by Council for the local Queanbeyan-Palerang community across a variety of art genres;
- To provide recommendations to Council on identified priority public art initiatives and opportunities in the Queanbeyan-Palerang Region with costs detailed;
- To promote art and culture as essential components of a healthy vibrant community;
- To support community engagement strategies with a focus on community participation and capacity building in cultural and art initiatives sponsored or managed by Council;
- To maximise resources provided for arts and culture outcomes; and
- To identify areas of art and cultural importance for development within the Queanbeyan-Palerang community.

The QPRC Cultural Development and Public Art Advisory Committee members *will not*:

1. Be involved in operational or staffing matters overseen by the Service Manager Community and Culture; nor.
2. Manage or initiate financial arrangements or incur any financial or legal liability which is not endorsed by Council resolution.

### **4. Membership**

The QPRC Cultural Development and Public Art Advisory Committee will consist of:

1. Council Representatives
  - One elected member as Chair of the Cultural Development and Public Art Advisory Committee; and
  - One elected member as alternate Chair.
2. Community Representatives

The QPRC Cultural Development and Public Art Advisory Committee will have a minimum of six community members, including two practising artists living or working within the community.

Community members from Queanbeyan-Palerang with significant expertise in one or more of the following areas will be invited to nominate as member of the Cultural Development and Public Art Advisory Committee:

- Public art;
- Community art involvement in any art genre;
- National or international art experience;
- Have a role with agencies or organisations involved in the delivery of arts and cultural outcomes in the local community;

- Manage local community or business endeavours associated with the arts; and/or
- Be a practising artist in any genre.

All community positions are voluntary.

The Cultural Development and Public Art Advisory Committee will be chaired by the elected Council Representative and convened by the Service Manager Community and Culture or the Cultural Development Coordinator.

### 3. Council Staff

The following staff members will attend the meetings as observers and do not have voting rights. They will provide information and/or secretariat support.

- Service Manager Community and Culture;
- Cultural Development Coordinator;
- Artistic Director, Performing Arts

Other staff may be invited as required.

## 5. Term of Membership

The Community Representatives will be appointed for a term of two years. Membership of the Committee is voluntary and members do not receive any remuneration or benefit from Council.

## 6. Meetings

The QPRC Cultural Development and Public Art Advisory Committee will meet quarterly from 5.30 pm on the first Monday of December, March, June and September or nearest suitable date in Council's Chambers. Extra meetings may be held if necessary at the discretion of the Chairperson.

The members of the QPRC Cultural Development and Public Art Advisory Committee will comply with Queanbeyan-Palerang Regional Council's Code of Meeting Practice and the quorum will be half plus one of full voting membership.

Minutes of the meetings will be presented to the next ordinary Council meeting (agenda permitting) for endorsement.

## 7. Code of Conduct

The members of the QPRC Cultural Development and Public Art Advisory Committee are required to abide by Council's Code of Conduct and Code of Meeting Practice.





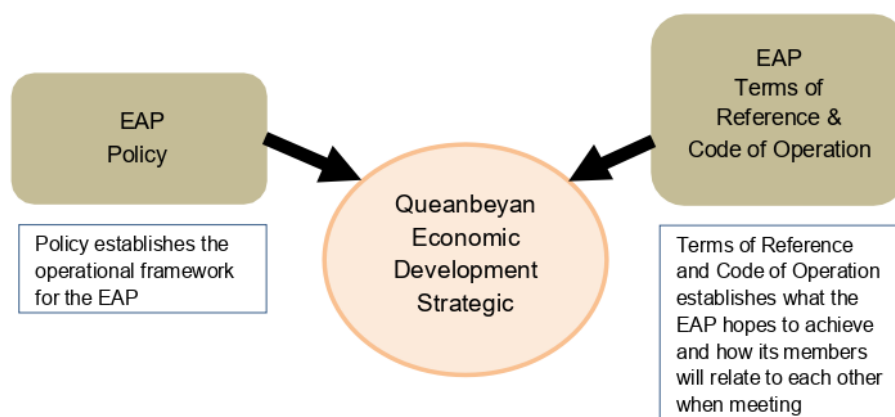
## QPRC ECONOMIC ADVISORY PANEL

### TERMS OF REFERENCE AND CODE OF OPERATION

#### 1. Introduction

The development of this QPRC Economic Advisory Panel is the direct outcome of a review of the former Queanbeyan Development Board (QDB). This review found that the QDB was not achieving its original Terms of Reference and that a more flexible approach was required other than via the establishment of a S.355 Council Committee to allow for community input into initiatives to promote the economic development of the Queanbeyan-Palerang Local Government Area. This more flexible approach establishes a QPRC Economic Advisory Panel (EAP) which will allow for community input into the development and implementation of the Queanbeyan-Palerang Economic Development Strategy.

The EAP will operate under the following Council instruments:



#### 2. Key Responsibilities

The QPRC Economic Advisory Panel is an independent recommending body which provides for input into the development of an Economic Development Strategy for Queanbeyan-Palerang and to facilitate the implementation of certain initiatives identified within the strategy. It will act as an important and independent community forum for assisting with the development and implementation of Queanbeyan-Palerang's Economic Development Strategy. Its objectives are:

1. To act as a 'think tank' for bringing initiatives and ideas before Council for possible inclusion within a Queanbeyan-Palerang Economic Development Strategy.
2. To encourage a close link between the Council and community by establishing and maintaining a two way flow of communication and information on economic development matters of interest to Queanbeyan-Palerang.
3. To act as a facilitator between Council and the Queanbeyan-Palerang Business Community on economic issues impacting upon Queanbeyan.

4. To mobilise sections of the Queanbeyan-Palerang community to take ownership of certain actions identified within the Queanbeyan-Palerang Economic Development Strategy.

When attending a QPRC Economic Advisory Panel meeting or carrying out other activities on behalf of the Group, members are responsible for their own good conduct. EAP Members should:

- (i) Be inclusive and courteous to the public, Council staff and Councillors and other EAP members;
- (ii) Help create an environment that is free of harassment and discrimination;
- (iii) Show respect to all other members and participants of the Advisory Panel's meetings, and
- (iv) Approach their involvement in EAP activities with honesty and integrity.

### 3. Membership

Membership of the QPRC Economic Advisory Panel will consist of a mixture of appointed, volunteer and Council representatives. The aim of this is to provide for a cross section of representation which will ensure a wide representation from across the Queanbeyan business community and major stakeholders who have an interest in the economic direction of the Queanbeyan economy.

Membership will consist of the following:

<p>Appointed Members (by invitation from Council)</p> <p><b>X3</b></p>	<p>Voluntary Members (by Expression of Interest)</p> <p><b>X2</b></p>	<p>Council Members (Mixture of Councillor &amp; Senior Staff)</p> <p><b>X3</b></p>
<p>Membership of prominent members of the Queanbeyan Business Community invited by Council to participate on the EAP. Membership to be reviewed on an annual basis.</p>	<p>Membership invited from interested members of the Community via an advertised Expression of Interest process. Council to select 2 members on an annual basis.</p>	<p>The Mayor, (or Councillor) plus General Manager and Portfolio GM Community Choice appointed by Council on annual basis.</p>

### 4. Meetings

#### 4.1 Meetings

Meetings of the EAP are to be held on a quarterly basis.

#### 4.2 Quorum

A quorum will consist of four members.

#### 4.3 Role of Council

The role of Queanbeyan-Palerang Regional Council will be to provide logistical support for the meetings of the Strategic Group. This will consist of:

- providing a venue
- organising the Agenda in consultation with the EAP Chair
- distributing the Agenda and associated documentation
- minute taking

- Catering

#### **4.4 Record Keeping**

All meetings will be minuted and saved within Council's Electronic Records Management System. Copies of the minutes will be published on Council's website along with Agenda papers.

#### **4.5 Meeting Frequency**

The EAP will meet on a quarterly basis at a minimum at a venue organised by the Council.

#### **4.6 Election of Chairperson**

The EAP will elect a Chairperson at its inaugural meeting. The position of Chair will be re-elected by the Group members on an annual basis at the anniversary of the inaugural meeting. A deputy chair will be elected at the same time to act as alternate chair in the absence of the Chairperson.

If either the Chair or Deputy Chair are unable to attend a meeting, then the first item of business to be undertaken at the meeting will be to elect a chair.

#### **4.7 Voting**

The EAP must keep an accurate record of voting at meetings and ensure that only those eligible to vote take part in the procedure. All recommendations must have a mover and seconder.

Those deemed eligible to vote are the members as defined in Section 3 of these Terms of Reference.

The Chair will be able to exercise a casting vote if there is no clear majority on a recommendation. The use of a casting vote must be recorded in the minutes.

#### **4.8 Referring Matters to Council**

Matters raised at the EAP meetings will be referred to the Service Manager Choice for consideration within the Queanbeyan-Palerang Economic Development Strategy. The Service Manager Choice will report back to the EAP on the outcome of their recommendations.

### **5. Conflicts of Interest**

A conflict of interest arises when your own interests, or those of people or organisations close to you, conflict with your obligations to the other EAP members and to Council. People attending EAP meetings may have interests in the matters under consideration, as the EAP is made up of residents, property owners, workers and business people who live or work in the Queanbeyan-Palerang area. This interest is understood and would not need to be disclosed. However, as an EAP member, you must declare an interest in a matter that goes beyond what would be generally considered impartial. In particular, if you are a member of the EAP you need to ensure that any interest you may have in a matter does not influence, and could not be perceived as influencing, the way in which a matter is discussed or any recommendation voted on by the Panel seeking possible Council action.

Some examples might help clarify what must be declared. For example:

1. If a proposal or initiative comes forward via the EAP for possible inclusion in the Economic Development Strategy and you have a direct interest in that

initiative (e.g. could be a part owner, or could be a shareholder, or could have close social links with the owner of the initiative). *You would need to declare these relationships and remove yourself from voting in the recommendation.*

2. A Member or Chairperson of the EAP could also be considered to have a conflict of interest if they misuse their position, because of an interest, to inappropriately direct discussion or not allow free discussion of a matter. *You must allow free and open discussion of matters and not try to direct discussion to benefit your interests.*

When an EAP member makes a disclosure of a conflict of interest (declaration) this will be recorded in the minutes. This will generally consist of the following:

- who declared the interest and the general nature of the interest declared
- what course of action was taken (was it deemed major requiring the person to remove themselves from the vote, or was it declared 'less than significant' which still allowed them to participate in the debate and vote?)

## **6. Public Comment**

### **6.1 Traditional Media**

From time to time, the media may contact EAP members for information or comment. If an EAP meeting has determined a matter, you can as an EAP member, speak on behalf of the Strategic Group if you are authorised to do so. If the matter has only been discussed, but no recommendation made, you can express your views but must stress that these are 'personal views' and not the views of the EAP meeting. While you may speak as a member of the public, or as a member of EAP, you must not make any public statement to the media or at public events that would lead someone to believe that you are speaking on behalf of Council or expressing its views or policies.

Members need to be aware that they are personally responsible if any material they distribute is considered to be defamatory or they make defamatory comments. Council cannot be held responsible for the remarks of individual EAP members.

#### *Extraordinary vacancies*

Vacancies for any reason at any stage in a term will be filled through public advertisement in the local media with the exception of members appointed from Council.

### **6.2 Social Media**

Social media is the collective of online communications channels dedicated to community-based input, interaction, content-sharing and collaboration. Websites and applications dedicated to forums, microblogging, social networking, social bookmarking, social curation, and wikis are among the different types of social media. Social media sites may include, but are not limited to:

- Facebook
- Twitter
- Instagram
- Snapchat
- Google+

- Wikipedia
- LinkedIn
- Reddit
- Pinterest
- Flickr
- YouTube

Social media content is anything that can be accessed via social media networks. This includes, but is not limited to:

- posts
- tweets
- photos
- links
- status updates
- comments
- shares
- retweets
- videos
- blogs

Members should exercise caution when utilising social media to promote or advocate EAP activities and initiatives. Like traditional media, you must not make any public statement that would lead someone to believe that you are speaking on behalf of the EAP (unless authorised as their speaker), Council or expressing its views or policies. Also you must not:

- publish confidential or personal information about staff or the public
- promote offers from individual businesses or groups of businesses
- promote the political interests of any elected representative.
- promote political messages, including State and Federal Government politics.
- publish content that is derogatory, racist, abuse, defamatory, threatening, bullying, harassing, hateful, sexist, infringes copyright, is a contempt of court or is otherwise

## **7. Confidential and Personal Information**

In your role as a member of EAP, you may deal with confidential or personal information obtained from Council. If so, you are required to maintain the security of any confidential or personal information and not access, use or remove any information, unless you are authorised to do so as part of your role as an EAP member.

Personal information should not be released without the prior approval of whom that information relates to.

## **8. Council Resources**

Council resources should only be used for Council approved purposes. Council resources include materials, equipment, documents, records, data and information. You must use Council resources, ethically, effectively, efficiently and carefully in the course of your role as an EAP member, and must not use them for private purposes.

## **9. General Standards of Behaviour**

### **9.1 Expected standards of behaviour**

In fulfilling your role as a member of the QPRC Economic Advisory Panel there are basic standards of behaviour which are expected of you. These are:

You must:

- not conduct yourself in a manner that is likely to bring the Advisory Panel or Council into disrepute
- act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions
- treat others with courtesy and respect at all times
- consider issues consistently, promptly and fairly
- not harass, discriminate against, or support others who do so
- disclose and appropriately manage any conflict of interests both of a significant and less than significant nature
- not accept money or gifts of value and avoid situations that give rise to the appearance of securing favourable treatment in terms of you performing your duties as a QEDSG member
- not direct council staff or influence staff in the exercise of their role and duties
- use and secure information appropriately and do not disclose confidential or personal information
- use Council resources ethically, effectively, efficiently and carefully in the course of your official duties:

### **9.2 What happens if the standards are not met?**

In an instance where members of the EAP fail to follow this Code and there is a complaint against a member this will be dealt with in accordance with the procedure for administration of the Model Code of Conduct which applies to Councils as developed by the Office of Local Government.

Complaints about a breach of these standards by a member other than the General Manager are to be made at first instance to the General Manager. Complaints about the General Manager are to be made to the Mayor. Where the complaint is serious and cannot be resolved informally, a complaint may be formally investigated by an independent conduct reviewer.

Breaches of these standards by members may result in the following action:

- censure

- requirement of apology
- prosecution
- removal from the EAP

Breaches by Council staff may result in disciplinary action, termination or, in the case of non-senior staff, such other penalty permitted under the relevant industrial award.





## **QPRC ENVIRONMENT & SUSTAINABILITY ADVISORY COMMITTEE**

### **TERMS OF REFERENCE**

The Terms of Reference of the QPRC Environment and Sustainability Advisory Committee shall be:

1. To assist in the development, monitoring, implementation and regular review of current and future Plans of Management in relation to the Local Government Area's major environmental assets including but not limited to:
  - Queanbeyan River Corridor
  - Mount Jerrabomberra
  - Jerrabomberra Creek
  - Stringybark Reserve
  - The Eastern Escarpment
  - Any other existing or proposed Plans of Management
  - Environmental and Sustainability Projects of regional significance which might attract external funding
  - Any Plans of Management overseen by other organisations which have integral links with Council's Plans, including those prepared by local and regional catchment authorities.
2. To provide advice to Council on projects, opportunities and priorities for funding or works through the Delivery Program and other relevant resources. To make recommendations to Council on projects such as the State of Environment Report, Stormwater Management Plan, Flood Plain Management Program, and any other referrals from Council.
3. To provide comments and feedback relating to developments and activities referred to the Committee by Council or Council Officers that have a potential impact on any of the objectives, actions and outcomes set down in the abovementioned Plans of Management.
4. To provide comment and feedback relating to Council's policies, strategies and activities which have an impact on the environmental sustainability of the local government area.

Committee activities will include site visits from time to time.

#### **Committee Membership**

##### *Voting Members*

##### *Elected Officials*

2 x Councillors (or elected Councillor alternative) one of whom shall be the Chair.

##### *Community Representatives*

- 1 x Queanbeyan Landcare Representative
- 5 x representatives invited from the community

The representatives will be invited from the community and will be appointed by calling for expressions of interest through the local media. Selection will be based on the following criteria:

- Whether they are residents of the Queanbeyan-Palerang Regional Council area
- A demonstrated interest and expertise in environmental issues
- Community contacts and participation
- Personal interest in the local government area's environmental issues

Eligible nominees will be assessed by Council Officers and the Committee and a recommendation be made to Council about proposed appointment to the Committee.

Should the Chair or additional Councillor not be available, the Portfolio General Manager Natural and Built Character will chair the meeting.

*Non-Voting Attendees* – Officers of Council to include: Portfolio General Manager Natural and Built Character; Service Manager Natural Landscapes and Health, Service Manager Urban Landscapes, Council's Sustainability Officer, Secretary; invited guests as notified; others as necessary.

A quorum shall consist of four voting members whose positions are filled at the time of the meeting.

#### **Suggested Agenda Items to Include**

1. Apologies
2. Confirmation of Report of Previous Meeting
3. Notified agenda items
4. Officers' Reports
5. Community Information Items – Members' Reports – *items of interest to the Committee and the Council to be reported on, such as activities of other organisations etc. (These items are **NOT** for action at that meeting).*
6. Date of the next meeting

Committee members are to serve for a period of two years after which time they can apply to renominate.

Note: Proponents of agenda items are to supply documentation in ample time to be circulated with the agenda to enable committee members to give consideration beforehand.

#### **Meeting Details**

The Committee will meet at least four times each year at 3.30pm for about one hour or at other times as required.

This document should be read in conjunction with Council's Code of Meeting Practice and meetings will be conducted in accordance with that Code.



## **QPR HERITAGE ADVISORY COMMITTEE**

### **TERMS OF REFERENCE**

#### **1. Role**

The role of the QPRC Heritage Advisory Committee is:

- To provide a coordinated body representative of the community and Council to give advice on heritage issues pertaining to the local government area
- Monitor the implementation of council's heritage policy
- Raise community awareness of heritage issues
- Review funding submissions for access to Council's heritage fund.

#### **2. Membership**

- One Councillor and three community representatives plus one representative from local historical societies.
- The Portfolio GM Natural Built Character will also be a voting member of the Committee.
- The delegated Councillor will be the Chair of the Heritage Advisory Committee.

#### **3. Meetings**

Meetings will be on a bi-monthly basis on the third Monday of the month at the Council Chambers.

The minutes of the Heritage Advisory Committee will be reported to Council for.

#### **4. Quorum**

A quorum for the Committee will be three.



## **QPRC SPORTING GALLERY COMMITTEE**

### **TERMS OF REFERENCE**

#### **1. Role**

To monitor sporting achievers across the region and to consider their induction into the QPRC Sporting Gallery.

#### **2. Membership**

The Membership of the Committee comprises:

- The Mayor or delegated Councillor
- Three community representatives invited by Council

The Mayor or delegated Councillor will be the Chair of the QPRC Sporting Gallery Committee.

#### **3. Meetings**

- Meetings will be on an as required basis.
- Meeting recommendations will be reported to Council for endorsement

#### **4. Secretarial Support**

The Service Manager Culture & Recreation will provide secretarial support to the Committee.

#### **5. Quorum**

A quorum for the Committee will be two members.



## **QPRC SPORTS COUNCIL**

### **TERMS OF REFERENCE**

#### **1. Role**

The role of the QPRC Sports Council is to consider the allocation of sports fields across the LGA prior to the commencement of each winter and summer sporting season, and to make recommendations for the development and/or improvements to sporting facilities and recreational needs, including input into the works programs.

#### **2. Membership**

Three councillors and a member from each sporting code or club in Queanbeyan-Palerang LGA. The Chair of the Sports Council to rotate between the councillors.

#### **3. Meetings**

Meetings will be on a quarterly basis four times per year on the first Monday of February, May, August and November.

The minutes of the Sports Council will be reported to Council for endorsement.



## QUEANBEYAN SHOWGROUND ADVISORY COMMITTEE

### TERMS OF REFERENCE

#### 1. Background

The Queanbeyan Showground Reserve Trust was established under the *Queanbeyan Showground (Variation of Purposes) Act 1995* with the then Queanbeyan City Council taken to be appointed as Trustee for the Reserve. The Reserve has been dedicated for a public showground, public recreation and community purposes.

#### 2. Role

The Queanbeyan Showground Advisory Committee has been established:

- To provide a forum to enable users of the Showground to have input into Showground usage and development, and
- Review of the Delivery Plan and its implementation, and
- To report to the Trust

#### 3. Membership

Membership of the Committee comprises:

- Two Councillors (currently the Mayor plus one other Councillor)
- Two representatives of the Queanbeyan Show Society
- One member of the Heritage Advisory Committee Plus User Group

Representatives consisting of:

- Queanbeyan and District Historical Society (1 member)
- Four user representatives
- Aboriginal Representation (1 member)

#### 4. Meetings

- Meetings will be on a quarterly basis per year
- The minutes of the Showground Advisory Committee will be reported to Council for endorsement.

#### 5. Secretarial Support

The Service Manager Legal & Risk will provide secretarial support to the Committee.

#### 6. Quorum

A quorum for the Committee will be four members.



## **QUEANBEYAN PERFORMING ARTS CENTRE BOARD**

### **TERMS OF REFERENCE**

#### **1. Council's Objectives for the Queanbeyan Performing Arts Centre**

The Queanbeyan-Palerang Regional Council's objectives for the Queanbeyan Performing Arts Centre are to:

1. Bring the best and greatest variety of theatre to Queanbeyan;
2. Nurture local talent;
3. Enhance the arts education of local students;
4. Contribute to the economic and cultural development of Queanbeyan; and
5. Contribute to the development of Queanbeyan as a vibrant place to live and a destination for visitors from Canberra and elsewhere

#### **2. The Role of the Queanbeyan Performing Arts Centre Board**

To achieve these objectives Council has established the Queanbeyan Performing Arts Centre Board as a Section 355 Committee of Council with delegation to oversee the operations of the Queanbeyan Performing Arts Centre.

The mission of the Queanbeyan Performing Arts Centre Board is to enhance the cultural and economic development of Queanbeyan by optimising the attendance and use of the Queanbeyan Performing Arts Centre so that it becomes a key facility for the community which contributes to local wellbeing and prosperity.

The role of the Queanbeyan Performing Arts Centre Board is:

1. To review the program of 10 Season touring productions and up to 2 in house productions per calendar year selected by the Program Manager;
2. To report to the Council on a six monthly basis on the financial performance of Program Operations and Building Operations, the patron attendance at the facility, the outcome of the Season Productions, commercial hires, community hires and other incidental uses.
3. To promote the Season of touring productions, in house productions, amateur productions, and the venue for commercial and community hires, conferences and functions to the local and regional community through their networks to increase utilisation and patron attendance.
4. To oversee the future business planning for the Centre and review progress on the 5 year Business Plan annually.

Council will provide an annual budget for the Queanbeyan Performing Arts Centre. The budget will be used to fund all operating costs of the venue including program costs, maintenance and building operating costs.

The Board will submit a draft annual budget as part of Council's Integrated Planning for inclusion in the annual Operational Plan. This will include the budget for Program Operations and Building Operations and the annual fees and charges. The budget will be adopted by Council as part of the Integrated Planning process.



The Board will submit information as required to be included in the Annual Report for Council. This will include information on any sponsorships obtained.

### **3. Performance Measures**

Staff will report to the Board on a range of identified performance measures on a quarterly basis in August, November, February and May, and the Board will report to Council on a six monthly basis in February and August.

### **4. Membership of the Board**

The membership of the Queanbeyan Performing Art Centre Board will be a maximum of six people consisting of:

1. The Mayor
2. General Manager/CEO
3. The Chair of the Cultural Advisory Committee
4. 3 representatives with substantial theatre and financial experience

Each of the six members is entitled to one vote.

The Portfolio General Manager Community Choice, Service Manager Culture & Recreation and relevant Venue and Events staff will attend the Board meetings as observers and will provide information and secretariat support. Other staff will be invited as required.

### **5. Term of Membership**

The members of the Board will be appointed for a term of two years. Membership of the Board is voluntary and members do not receive any remuneration or benefit from Council.

### **6. The Chairperson of the Board**

The chairperson for the Board will be elected by the Board members and the position will be for a period of two years. The Chairperson may re-apply to extend his or her tenure.

### **7. Selection of the three Board representatives with theatre and financial experience**

A public advertisement will be placed in the local media inviting nominations for the three Board representatives with theatre and financial experience. Each nominee must address the selection criteria (as set out below) on the application form and submit the signed form to Council's General Manager. Nominees must not have a pecuniary or non-pecuniary conflict of interest.

Council will receive a report on the suitability of any candidates and will determine the three representatives against the criteria, noting that a willingness to attend opening nights of Season productions and to participate in the activities of the performing arts centre is essential.

#### **Selection Criteria**

1. Knowledge and understanding of the business of performing arts centres and factors affecting patron attendance;
2. Understanding of the financial operations of a performing arts centre or similar business;
3. Interest in developing culture and arts in Queanbeyan and the region;

4. Ability to bring an innovative and fresh approach to creating cultural and economic growth for Queanbeyan;
5. Access to networks and key stakeholders who can assist in the promotion of the Queanbeyan Performing Arts Centre as key cultural and economic facility for Queanbeyan;
6. Willingness to commit to and participate in Committee meetings; and
7. Willingness to attend opening night of Season productions and to be a participant in the activities of the performing arts centre

*Vacancies at the end of a term*

Vacancies at the end of a term will be filled through public advertisement in the local media inviting nominations for the vacant representatives with theatre and financial experience. This does not apply to members appointed from Council.

*Extraordinary vacancies*

Vacancies for any reason at any stage in a term will be filled through public advertisement in the local media with the exception of members appointed from Council.

## **8. Meetings**

The Boards delegated authority includes:

1. Reviewing the program of 10 Season touring productions and up to two in-house productions per calendar year selected by the Program Manager;
2. Overseeing the future business planning for the centre and reviewing progress on the Centre's Business Plan annually;
3. Reviewing the financial performance of the Queanbeyan Performing Arts Centre;
4. Confirming Minutes of its Meetings; and
5. Reporting to Council.

## **9. Code of Conduct**

The Board will be required to abide by Council's Code of Conduct.:

## **10. Review of the Board**

The Board will review its own performance on an annual basis with a view to improving its own performance.



## **SISTER CITY COMMITTEE**

### **TERMS OF REFERENCE**

#### **1. Introduction**

In 1993 the former Queanbeyan City Council resolved to participate in the International Sister City program, and consequently formed a community-based Sister City Committee and joined the Australian Sister City Committee.

#### **2. Role**

The role of the committee is to provide strategic and policy advice to Council on furthering Sister City relationships and of coordinating a Sister City Volunteer program to enhance exchanges of all kinds, pursuant to sections 377 of the Local Government Act 1993 as amended.

#### **3. Membership**

Membership of the Committee shall consist of the following:

- The Mayor or his/her delegate
- Three community representatives
- Two high school representatives

The three community members shall be elected by Council from nominees who have responded to a public call for nominations. Nominations will be called every four years in October following the Council elections.

The two high school representatives will be invited to participate by Council after consultation with local high schools

#### **4. Responsibilities**

The Committee acknowledges that it shall perform and exercise on behalf of the Council the role of assisting in further Sister City relationships, subject to being guided by the following general aims:

- 4.1 That the committee shall provide advice to Council on objectives and general guidelines covering any specific activity such as formal Council exchanges; education, cultural, recreational and other group tours/exchanges; linking of local institutions with corresponding institutions; commercial and/or trade opportunities; encouragement and involvement of individual travellers; pen, tape and video pals systems; and other intercity programs.
- 4.2 That the Committee shall provide strategic advice to Council on new initiatives or opportunities which may arise from time to time.
- 4.3 That the Committee shall coordinate the Sister City Volunteer Program within such objectives and guidelines adopted by Council including maintaining a register of institutions and organisations willing to place their time, their accommodation or other resources including finance at the disposal of the Sister City program, recruiting volunteers and contributors

and organising the use of volunteers and non-financial contributions.

- 4.4 That the Committee shall elect its own President and Secretary, and on a quarterly basis as determined by the Committee or on an 'as required basis'.
- 4.5 That the Committee shall cause Reports of Committee meetings to be forwarded to the General Manager for inclusion in the General Manager's report to Council.
- 4.6 That the Committee shall maintain contact with the Australian Sister City Association.
- 4.7 That the Committee shall at the thirtieth day of September in each and every year present to Council a report on the activities of the Committee.
- 4.8 That the Committee shall ensure all policy guidelines comply with all statutory requirements made by the Federal and State Government.
- 4.9 That any or all of the activities conducted by the Committee may be required by Council to be varied or discontinued at any time but only after consultation with the Committee.

#### **5. Quorum**

The quorum for the Committee is three members.

#### **6. Secretarial Services**

Secretarial Services for the Committee will be coordinated by the Service Manager Culture & Recreation.



## **YOUTH ADVISORY COMMITTEE**

### **TERMS OF REFERENCE**

#### **1. Role**

To build capacity, both of young people and of Council to improve opportunities for young people to participate in local decision making.

#### **2. Membership**

Membership of the Youth Committee comprises:

- Six to eight members under age of 25, including members of high schools, youth groups and similar associations.

The Committee will elect its Chair and Secretary at its inaugural meeting.

#### **3. Meetings**

- Meetings will be held quarterly or as required to comment or present on Council strategies and plans.
- Minutes of Meetings will be reported to Council for endorsement.

#### **4. Secretarial Support**

The Program Coordinator Community will act as the liaison between Council and the Committees and will be responsible for ensuring their minutes are reported to Council.

#### **5. Quorum**

A quorum for the Committee will be five.

# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 6.15            LGNSW SPECIAL CONFERENCE DELEGATES

ATTACHMENT 1    NOTICE OF MOTION TO LGNSW SPECIAL CONFERENCE  
                                 2022 - STREETLIGHTING

**ORDINARY MEETING OF COUNCIL**  
**REPORTS TO COUNCIL - ITEMS FOR DETERMINATION**

**24 NOVEMBER 2021**

**9.9 Notice of Motion to LGNSW Special Conference 2022 - Streetlighting (Ref: ;  
Author: Tegart/Flint)**

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**File Reference:** 52.5.2-02

**Summary**

The Local Government NSW Special Conference will be held in person at the Hyatt Regency Sydney from Monday 28 February to Wednesday 2 March 2022. The CRJO resolved to request member Councils' consideration in preparing a Notice of Motion to the Special Conference.

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**Recommendation**

**That Council submit the following motion in relation to streetlighting in accordance with the LGNSW Motions Submission Guide for consideration at the 2022 LGNSW Special Conference:**

**"That LGNSW lead the advocacy on streetlighting pricing, billing and smart innovation relating to DNSPs across the State".**

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**10 Background**

The structural, regulatory and funding frameworks for streetlights in NSW are complex and councils typically do not have the resources or knowledge needed to navigate them.

Streetlights in NSW are owned by the three Distributed Network Supply Provider (DNSPs), viz Essential Energy, Endeavour Energy and Ausgrid. There is a long back story to this structural arrangement where, in a nutshell, streetlights were swept up in the State asset strip of County Councils in the 1990s and have become the "orphan child" of DNSPs; typically, poorly managed and resourced.

- 20** DNSPs are not encouraged to innovate or reduce the energy consumption of streetlights. Councils pay for infrastructure at the direction of DNSPs. Costs are managed through the Australian Energy Regulator.

The CRJO has been a member of the Southern Lights initiative for some time but recently elected to withdraw. Continued discussions across the JO Network indicate that streetlighting continues to be a contested and expensive issue for many councils and so a new approach to collaboration is sought.

Touchpoints in the frameworks that lend themselves to a collective approach are:

**30**

1. AER submission – every five years, the AER releases a Determination that sets the pricing framework for DNSP charges for streetlighting. Typically, there is at least a 2.5-year consultation period prior to the final Determination being made. The DNSPs are required to put their anticipated costs forward for the next period which are reviewed by the AER and consumers like local government. Typically, we find that the pricing put forward is opaque and that substantial work needs to be done to validate what is being asked for, and they always ask for more.



**ORDINARY MEETING OF COUNCIL****24 NOVEMBER 2021****9.9 Notice of Motion to LGNSW Special Conference 2022 - Streetlighting (Ref: ;  
Author: Tegart/Flint) (Continued)**

- 40 2. NSW mandatory streetlighting code reviewed – after more than a decade of lobbying the NSW Public Lighting Code is now mandatory. This means that the DNSPs Licence which is issued by IPART is held to account in part by its performance in meeting streetlighting benchmarks. The Code is the only way that councils can hold DNSPs to account in relation to the promises that are made to the AER in relation to service provision. The Code is reviewed annually and fully reviewed every three years. A full review is due next year.
- 50 3. Supporting and progressing smart innovation – our experience to date across all DNSPs has been a resistance to adopting change and there has been a divide-and-conquer approach to councils which want to adopt new technology. A whole-of-state approach would go a long way to addressing the problem. In addition, councils are now duplicating arguments and research to justify the adoption of the technologies with DNSPs.
4. Quality assurance in billing – there are some significant discrepancies in billing and these have been addressed on a one-by-one basis. However, it would appear that these are the tip of the iceberg and that a whole-of-state approach would be a far more efficient way of dealing with the problem, perhaps on a DNSP by DNSP basis. As reporting on billing and performance are now part of the reporting to IPART in relation to their licensing, it is importance to get the quality assurance right.

Potential value to member Councils of LGNSW leadership

- 60 There are approximately 163,000 lights in the Essential Energy footprint covering 84 Councils. Being regional and rural, nearly all of these councils do not have the resources to manage advocacy. All these councils are having LED upgrades. Few understand the process and indeed Essential Energy has a poor understanding of their own asset. Costs and risks to councils are significant through this period of change. Given the rate of change and the potential of streetlights in smart city/community upgrades, arguably Essential Energy will manage its risk through adding a premium in any billing arrangement. See for example the past two years of consultation on smart controls.

**Attachments**

Nil

# **QUEANBEYAN-PALERANG REGIONAL COUNCIL**

## **Council Meeting Attachment**

**12 JANUARY 2022**

ITEM 7.1            ELECTORAL FUNDING OBLIGATIONS OF NEWLY ELECTED  
                         COUNCILLORS AND MAYORS

ATTACHMENT 1    FACT SHEET - ELECTORAL FUNDING REPORTING  
                         OBLIGATIONS



## Fact sheet

# Disclosing political donations

(Half-yearly period 1 July to 31 December 2021)

The following information applies to political parties, elected members, candidates, groups, third-party campaigners, associated entities, party agents and official agents. Information in this fact sheet is based on the provisions of the *Electoral Funding Act 2018*. Refer to the legislation for the full requirements and/or be guided by independent legal advice.

### What is a half-yearly political donations disclosure?

Political parties and other electoral participants in New South Wales must disclose political donations every six months. A half-yearly political donation disclosure form includes political donations made and received.

### When must a half-yearly political donations disclosure be lodged?

The due date for submitting a disclosure of political donations made and received in the half-yearly period 1 July 2021 to 31 December 2021 is **Friday, 25 February 2022**.

### Who must lodge a half-yearly political donations disclosure?

All political parties and electoral participants are required to lodge a half-yearly political donations disclosure form:

- All candidates, as well as the lead candidates of groups, must disclose all political donations made and received in the half-yearly period, or lodge a “nil” disclosure form if no political donations were made or received.
- All elected members, political parties and associated entities must disclose all political donations made and received in the half-yearly period, or lodge a “nil” disclosure form if no political donations were made or received.
- Third-party campaigners must disclose all reportable political donations received during the half-yearly period that were or are intended to be used to incur electoral expenditure in the capped expenditure period for an election, or lodge a “nil” disclosure form if no reportable political donations were received.

### What are political donations?

Political donations are defined on the NSW Electoral Commission’s [website](#).

Political donations include:

- monetary and non-monetary gifts
- free or discounted goods or services
- an amount paid by a person to attend or participate in a fundraising venture or function
- an annual or other subscription paid to a party by a party member or affiliate
- a disposition of property from the federal branch (or a State or Territory branch) of a party to the NSW branch of the party or a disposition of property from one NSW party to another NSW party

- uncharged or insufficient interest charged on a loan
- a contribution made by a candidate to the group of which they are a member.

### What must be disclosed?

Political donations must be disclosed as follows:

- small political donations made and received (does not apply to third-party campaigners)
- reportable political donations made\* and received
- details of fundraising ventures and functions including the net or gross proceeds
- reportable loans received
- the total amount of annual or other subscriptions paid to a party, each subscription rate and the number of party members that paid at each rate (applies to parties only)
- political donations made to a Legislative Assembly election candidate before the candidate was selected or endorsed by a party (applies to parties only)
- payments other than political donations paid into the campaign account (applies to campaign accounts of candidates, groups and elected members only).

\* If a third-party campaigner has made reportable political donations in the half-yearly period the political donations can be disclosed in a half-yearly disclosure form, otherwise they must be disclosed in an annual major political donor disclosure form following 30 June 2022.

### Who is responsible for making the disclosure?

Half-yearly political donation disclosure forms must be completed, signed and submitted by the person responsible for the disclosure as set out in the table below, unless otherwise notified in writing by the NSW Electoral Commission:

Disclosure form type	Person responsible
<b>Political Party</b>	the party agent
<b>Councillor or mayor</b>	the councillor or mayor
<b>Local government election candidate</b>	the candidate (includes a candidate who is a member of a group)
<b>Local government election group of candidates</b>	the lead candidate of the local government group
<b>Third-party campaigner or associated entity</b>	the official agent of the third-party campaigner or associated entity
<b>Member of Parliament (MP)</b>	the party agent, if the MP is a member of a party that is registered for State elections or the MP, in all other cases
<b>State election candidate</b>	the party agent, if the candidate is a member of a party that is registered for State elections or the candidate, in all other cases
<b>State election group of candidates</b>	the party agent of the group's lead candidate, if group members are members of one or more parties registered for State elections or the lead candidate, in all other cases

## How to submit a political donation disclosure form

Disclosure forms can be submitted online using [Funding and Disclosure Online](#):

1. [Log in](#) to Funding and Disclosure Online using your username and password, or [Request access](#) (if you don't already have access)
2. Your dashboard shows the disclosure(s) you need to submit for the half-yearly period
3. Follow these [instructions](#) to create and submit the disclosure, or these [instructions](#) to submit a 'Nil' disclosure.

When submitting a disclosure using Funding and Disclosure Online, supporting documents (e.g. copies of receipts issued to donors) can be uploaded before the disclosure is submitted electronically.

For those unable to use Funding and Disclosure Online, disclosure forms are available for download on the NSW Electoral Commission's [website](#). A disclosure form or "nil" disclosure form (if no donations were made or received) must be validly lodged with the NSW Electoral Commission by **Friday, 25 February 2022**.

A disclosure form is validly lodged if it is lodged by the due date and:

- the correct form has been used (there are separate forms for political parties and each type of electoral participant),
- it contains all pages (even if some or all pages contain no disclosures), and
- it is completed, signed and dated by the person who is responsible for making the disclosure. Note that digital signatures are no longer accepted on disclosure forms downloaded from the website. If you would like to sign with a digital signature, please use Funding and Disclosure Online to submit your disclosure.
- The disclosure form must be lodged with copies of the receipts issued to donors who made a reportable political donation.

If you are submitting a disclosure form downloaded from the website, the form and supporting documents can be lodged in paper or electronic form by email or fax but not through your own file hosting service (e.g. Dropbox). If submitting files that are too large to send by email (over 20MB), contact us at [fdc@elections.nsw.gov.au](mailto:fdc@elections.nsw.gov.au) to request a unique link for large file upload. These requests need to be made before 18 February 2022 and will only be attended to in business hours.

## Were you a member of a group of candidates in the half-yearly period?

### Disclosure forms to submit if you were a member of a group

- The person responsible for the group, usually the lead candidate, must submit **two** disclosures: the group disclosure form **and** their own individual candidate disclosure form.
- Each group member **must** submit their own individual candidate disclosure form.

**Candidate disclosure forms:** must include any political donations made to or for the benefit of the candidate and any political donations made by the candidate including political donations made by a candidate to the group of which they are a member, membership fees, levies, or other payments made to the political party of which the candidate is a member.

**Group disclosure forms:** must include any political donations made to or for the benefit of the group and any political donations made by the group. Political donations received by the group include donations made by the group's members to the group.

If a group member donates to their group, the candidate who donated to their group must disclose making the donation to the group. The lead candidate of the group must disclose, in the group's disclosure form, receiving the donation from the candidate.

### Were you a councillor or mayor in the half-yearly period?

Any person who was a councillor or mayor between 1 July 2021 and 31 December 2021 must submit an elected member disclosure form. This includes:

- those who were declared “elected” at the 2021 local government elections,
- elected members who contested the 2021 local government election but were not re-elected, and
- elected members who did not recontest the 2021 local government elections.

#### Disclosure forms to submit if you were a councillor or mayor

- If you were elected at the 2021 local government elections, you **must** submit:
  - an elected member disclosure form,
  - a candidate disclosure form, and
  - a group disclosure form (if you were the lead candidate of a group)
- If you were an elected member prior to the 2021 local government elections and you were a candidate but were not re-elected, you **must** submit:
  - an elected member disclosure form,
  - a candidate disclosure form, and
  - a group disclosure form (if you were the lead candidate of a group)
- If you were an elected member prior to the 2021 local government elections and you were not a candidate, you **must** submit:
  - an elected member disclosure form

An elected member disclosure form is to include political donations made to or for the benefit of the person as an elected member and political donations made by the elected member during the half yearly period. Political donations made by an elected member include membership fees, levies and other payments made by the elected member to the political party of which they are a member.

Political donations disclosed by a person in their elected member disclosure form do not also need to be disclosed in the person’s candidate disclosure form, and vice versa.

### Were you a candidate for a councillor election and a mayoral election?

If you were a candidate for both a councillor election and a mayoral election in the same local government area the person responsible for the candidate can submit a single candidate disclosure form.

### Can a disclosure form be amended?

Yes, a disclosure form previously submitted to the NSW Electoral Commission can be amended by the person responsible for the original disclosure or their successor. “Amended disclosure” forms can be submitted using [Funding and Disclosure Online](#), or are available on request.

### What happens after a disclosure is made?

Disclosure forms are kept by the NSW Electoral Commission for at least six years and are published on the NSW Electoral Commission’s [website](#).

Disclosure forms may be subject to a compliance audit by the NSW Electoral Commission. You are required to retain complete and accurate records in relation to a disclosure for at least three years.

### **What happens if a disclosure form is not lodged, is lodged late or is incorrect or incomplete?**

Breaching the legislative requirements for disclosures may constitute a criminal offence. The NSW Electoral Commission may issue warnings, penalties or prosecute offences including:

- failure to validly lodge a disclosure form by the due date
- lodging an incomplete disclosure without a reasonable excuse
- providing or withholding information knowing it will result in a false or misleading declaration by the person responsible for the disclosure
- making a false statement in a declaration on a disclosure form.

A disclosure form is taken to be invalidly lodged if:

- the incorrect form is used or pages are missing from the form
- the form has not been signed by the person who is responsible for signing the form
- the declaration section of the form has not been properly completed including the date the declaration was signed.

### **More information**

The *Electoral Funding Act 2018* is available in full at [legislation.nsw.gov.au](http://legislation.nsw.gov.au).

For further information, contact us on 1300 022 011 or at [fdc@elections.nsw.gov.au](mailto:fdc@elections.nsw.gov.au).