

MEETING NOTICE

The **Ordinary Meeting** of
Bayside Council
will be held in the Rockdale Town Hall, Council Chambers,
Level 1, 448 Princes Highway, Rockdale
on **Wednesday 8 May 2019** at **7:00 pm**.

AGENDA

1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

2 OPENING PRAYER

3 APOLOGIES

4 DISCLOSURES OF INTEREST

5 MINUTES OF PREVIOUS MEETINGS

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6 MAYORAL MINUTES

Nil

7 PUBLIC FORUM

Members of the public, who have applied to speak at the meeting, will be invited to address the meeting.

Any item the subject of the Public Forum will be brought forward and considered after the conclusion of the speakers for that item.

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The meeting will be video recorded and live streamed to the community via Council's Facebook page, in accordance with Council's Code of Meeting Practice.

Meredith Wallace
General Manager

Council Meeting

8/05/2019

Item No	5.1
Subject	Minutes of the Council Meeting - 10 April 2019
Report by	Michael Mamo, Director City Performance
File	SF18/3014

Officer Recommendation

That the Minutes of the Council meeting held on 10 April 2019 be confirmed as a true record of proceedings.

Present

Councillor Bill Saravinovski, Mayor
Councillor Joe Awada, Deputy Mayor
Councillor Liz Barlow
Councillor Christina Curry
Councillor Tarek Ibrahim (from 7.09 pm)
Councillor Petros Kalligas (from 7.22 pm)
Councillor James Macdonald
Councillor Ed McDougall
Councillor Scott Morrissey
Councillor Michael Nagi
Councillor Vicki Poulos
Councillor Dorothy Rapisardi
Councillor Paul Sedrak
Councillor Andrew Tsounis

Also Present

Meredith Wallace, General Manager
Michael Mamo, Director City Performance
Debra Dawson, Director City Life
Michael McCabe, Director City Futures
Colin Clissold, Director City Presentation
Fausto Sut, Manager Governance & Risk
Bruce Cooke, Acting Manager Executive Services
Matthew Walker, Manager Finance
Kristina Forsberg, Manager People & Organisational Culture
Maree Girdler, Manager Community Life
Scott Field, Manager Sports & Recreation
Karin Targa, Major Projects Director
Christine Stamper, Acting Head of Communications & Events
Taif George, IT Technical Support Officer
Anne Suann, Governance Officer

The Mayor opened the meeting in the Council Chambers, Rockdale Town Hall, Level 1, 448 Princes Highway, Rockdale at 7.07 pm.

The Mayor informed the meeting, including members of the public, that the meeting is being video recorded and live streamed to the community via Council's Facebook page, in accordance with Council's Code of Meeting Practice.

1 Acknowledgement of Traditional Owners

The Mayor affirmed that Bayside Council respects the traditional custodians of the land, elders past and present and future leaders, on which this meeting takes place, and acknowledges the Gadigal and Bidjigal Clans of the Eora Nation.

2 Opening Prayer

Lieutenant Matt Cairns from Rockdale Salvation Army opened the meeting in prayer.

3 Apologies

Councillor Ibrahim arrived during discussion of this item at 7.09 pm.

RESOLUTION

Minute 2019/050

Resolved on the motion of Councillors Nagi and Awada

That the following apologies be received and leave of absence granted:

- Councillor Ron Bezic
- Councillor Kalligas (anticipated late arrival)

4 Disclosures of Interest

Councillor Curry declared a Significant Non-Pecuniary Interest in Item 8.1 on the basis that she is involved in charities referred to in the report, and stated she would leave the Chamber for consideration and voting on the matter.

5 Minutes of Previous Meetings

5.1 Minutes of the Council Meeting - 13 March 2019

RESOLUTION

Minute 2019/051

Resolved on the motion of Councillors Nagi and Barlow

That the Minutes of the Council meeting held on 13 March 2019 be confirmed as a true record of proceedings.

5.2 Minutes of the Extraordinary Council Meeting - 27 March 2019

RESOLUTION

Minute 2019/052

Resolved on the motion of Councillors Nagi and Tsounis

That the Minutes of the Extraordinary Council meeting held on 27 March 2019 be confirmed as a true record of proceedings.

Presentations

Presentation – Bayside Garden Centre

Mr Bill Dunn, Secretary of the Bayside Garden Centre Management Committee presented a cheque in the amount of \$22,500 to Councillor Barlow for the Council which demonstrates a healthy profit from the joint venture agreement between Council and the Intellectual Disability Foundation of St George in the management of the Bayside Garden Centre.

Councillor Barlow presented a Certificate of Recognition to Mr Dunn for the Bayside Garden Centre in recognition of another successful year of trading and acknowledging the success of the Bayside Garden Centre as a profitable nursery while also providing a meaningful work environment and experience for those with a disability.

6 Mayoral Minutes

6.1 Mayoral Minute - Flying the Aboriginal Flag from the Sydney Harbour Bridge

RESOLUTION

Minute 2019/053

Resolved on the motion of Councillors McDougall and Tsounis

- 1 That Council endorses the petition calling for the Aboriginal Flag to be flown from the Sydney Harbour Bridge 365 days a year.
- 2 That Council publicises the petition through our regular communications channels including social media and the local newspapers.
- 3 That Council provides hard copies of the petition for signatories at Council facilities and major events.
- 4 That Council writes to the NSW Premier, the Minister for Aboriginal Affairs, the Minister for Roads, Maritime and Freight and the Minister for Transport and Infrastructure and local State Members calling on them to support displaying the Aboriginal Flag on the Sydney Harbour Bridge permanently.

7 Public Forum

There were no Public Forum presentations.

8 Reports

8.1 Bayside Council Community Grants Program 2018-2019

Councillor Curry had previously declared a Significant Non-Pecuniary Interest, and left the Chamber for consideration of, and voting on, this item.

RESOLUTION

Minute 2019/054

Resolved on the motion of Councillors Tsounis and Nagi

That Council endorses the recommendations of the Assessment Panel and approves the recommended Small and Seeding Grants to the value of \$74,920.80.

8.2 New Park Name Suggestion in Mascot

RESOLUTION

Minute 2019/055

Resolved on the motion of Councillors Rapisardi and Curry

- 1 That Council notes the Botany Historical Trust Executive Committee's support for the public reserve at the intersection of Botany Road and Wentworth Avenue, Mascot being named "Beckenham Reserve".
- 2 That Council endorses the name "Beckenham Reserve" for the public reserve at the intersection of Botany Road and Wentworth Avenue, Mascot and is be submitted to the Geographical Names Board NSW for approval and gazettal.

8.3 Support For Funding Applications For Various Sporting Infrastructure

RESOLUTION

Minute 2019/056

Resolved on the motion of Councillors Macdonald and Nagi

That Council supports the applications to the Federal Government, both internal and by sporting associations, with the addition of a synthetic field and lighting at Kingsgrove Avenue Reserve.

8.4 305 Bay Street Brighton Le Sands - Fire Report

Councillor Kalligas arrived at the commencement of this item at 7.22 pm.

RESOLUTION

Minute 2019/057

Resolved on the motion of Councillors Tsounis and Saravinovski

- 1 That Council acknowledges the report reference number BFS 17/1536 (0893) dated 5 February 2019, forwarded on behalf of the Commissioner of NSW Fire and Rescue, as required by Part 9.3 Sch.5 Part 8 (17), of the Environmental Planning and Assessment Act 1979.
- 2 That Council notifies NSW Fire & Rescue of Council's actions in relation to this matter.

8.5 63-69 Bonar Street Arncliffe - Fire Order**RESOLUTION**

Minute 2019/058

Resolved on the motion of Councillors Tsounis and Nagi

- 1 That Council acknowledges the report reference number BFS 18/2515 (4702) dated 19 February 2019, forwarded on behalf of the Commissioner of Fire and Rescue NSW, as required by Part 9.3 Sch.5 Part 8 (17), of the Environmental Planning and Assessment Act 1979.
- 2 That Council notifies Fire & Rescue NSW of Council's actions in relation to this matter.

8.6 Tender - AS Tanner Reserve Sporting Amenities**RESOLUTION**

Minute 2019/059

Resolved on the motion of Councillors Poulos and Nagi

- 1 That the attachments to this report be withheld from the press and public as they are confidential for the following reason:

With reference to Section 10(A) (2) (d)(i) of the Local Government Act 1993, the attachments relate to commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.

- 2 That in accordance with Regulation 178 (1)(a) of the Local Government (General) Regulations 2005, Council accepts the tender from Mansfield Corporation Pty Ltd for Contract F19/27 being for the construction works for AS Tanner Reserve Building and Amenities for the amount of \$ 1,270,687.27 exclusive of GST.

8.7 Tender - NYE Fireworks Pyrotechnics

RESOLUTION

Minute 2019/060

Resolved on the motion of Councillors Nagi and McDougall

- 1 That the attachments to this report be withheld from the press and public as they are confidential for the following reason:

With reference to Section 10(A) (2) (d)(i) of the Local Government Act 1993, the attachments relate to commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.

- 2 That Council accepts the Tender from and enters into a contract with Fireworks Australia Pty Ltd for the provision of the fireworks event on Botany Bay for New Year's Eve 2019, 2020 and 2021. The contract will contain two optional extensions of 12 months each to cover the fireworks event on Botany Bay for New Year's Eve 2022 and 2023.

8.8 Draft 2017-18 General Purpose Financial Reports and Statement by Councillors and Management

RESOLUTION

Minute 2019/061

Resolved on the motion of Councillors Awada and Macdonald

- 1 That the Mayor, Councillor Saravinovski, Councillor Barlow, the General Manager and Responsible Accounting Officer sign the Statement by Councillors and Management for the General Purpose Financial Reports.
- 2 That Council issues the draft financial statements, including the signed Statement by Councillors and Management on the General Purpose Financial Reports to Council's auditor, Audit Office of NSW.

8.9 Draft 2018-21 Delivery Program, 2019/20 Operational Plan, 2019/20 Budget and 2019/20 Fees & Charges

RESOLUTION

Minute 2019/062

Resolved on the motion of Councillors Nagi and Tsounis

- 1 That Council receives and notes the report.
- 2 That Council approves the placement of the Draft 2018-21 Delivery Program and Draft 2019/20 Operational Plan and budget on public exhibition for comment by the community.

8.10 2018-19 Capital Program Carry Overs

RESOLUTION

Minute 2019/063

Resolved on the motion of Councillors Nagi and Ibrahim

- 1 That the projects identified in the report be deferred from the 2018/19 City Projects Program and included in the draft 2019/20 City Projects Program.
- 2 That in accordance with *Clauses 203 and 211 of the Local Government (General) Regulations 2005*, the proposed variations to the adopted revised budget detailed in this report are adopted by Council and the changes to funding and expenditure items in 2018/19 be voted.

8.11 Statutory Financial Report for February 2019

RESOLUTION

Minute 2019/064

Resolved on the motion of Councillors Tsounis and Ibrahim

That the Statutory Financial Report by the Responsible Accounting Officer be received and noted.

8.12 AMAC Conference 2019 – call for nominations to attend

RESOLUTION

Minute 2019/065

Resolved on the motion of Councillors Nagi and Rapisardi

- 1 That Councillors Rapisardi, Nagi, Macdonald, Tsounis and Ibrahim attend the 2019 AMAC Conference and associated functions.
- 2 That an attendance report be provided to the first Ordinary Meeting of Council following conference attendance to provide Councillors with an overview and highlights from the conference.

8.13 Response to Question - Angelo Anestis Aquatic Centre

The response was received.

9 Minutes of Committees**9.1 Minutes of the Extraordinary Risk & Audit Committee Meeting - 28 March 2019**

RESOLUTION

Minute 2019/066

Resolved on the motion of Councillors Barlow and Awada

That the Minutes of the Extraordinary Risk & Audit Committee meeting held on 28 March 2019 be received and the recommendations therein be adopted.

9.2 Minutes of the Bayside Traffic Committee Meeting - 3 April 2019

RESOLUTION

Minute 2019/067

Resolved on the motion of Councillors Tsounis and Rapisardi

That the Minutes of the Bayside Traffic Committee meeting held on 3 April 2019 be received and the recommendations therein be adopted with the exception of BTC19.045.

9.3 BTC19.045 – Minutes of the Bayside Traffic Committee Meeting – 3 April 2019 – Avenal Street, Arncliffe between Princes Highway and Marinea Street – Proposed P15 minutes parking in 90 degree angle parking spaces and full time 'No Stopping' zone

RESOLUTION

Minute 2019/068

Resolved on the motion of Councillors Awada and Ibrahim

That approval be given for the installation of the following restrictions along the northern kerb line of Avenal Street, Arncliffe, east of Marinea Street:

- 1 'P15 min 8.30 am – 9.30 am and 2.30 pm – 3.30 pm School Days' at the 90 degree angle parking spaces along the frontage of Arncliffe Public School
- 2 Existing 14m 'P15min 8.30 am – 9.30 am & 2.30 pm – 3.30 pm School Days' be changed to full time 'No Stopping' restrictions.
- 3 Work to be completed by Monday, 29 April 2019, as far as possible.
- 4 Write to the Principal of the Arncliffe Public School informing the school of the changes.

10 Notices of Motion

There were no Notices of Motion.

11 Questions With Notice

11.1 Question with Notice – Anti-Hooning Taskforce

Councillor Tsounis asked the following question:

Council at its meeting of 14 March 2018 considered a Mayoral Minute on an Anti-hooning Taskforce which was accepted by the Council. Since then the traffic issues in Brighton, specifically Bay Street and surrounding streets, have exacerbated.

How often has this taskforce met? What measures have been considered by this taskforce, and what proposals do they have to mitigate the hooning concerns of residents?

12 Confidential Reports

Notwithstanding the report was confidential, this item was considered in Open Council.

12.1 General Manager Performance Review and Agreement

RESOLUTION

Minute 2019/069

Resolved on the motion of Councillors Nagi and Macdonald

That in accordance with the Standard Contract of Employment for General Managers of Local Councils in New South Wales and Council adopted General Manager's Performance Agreement Policy, Council receives and notes this report.

13 Call For Rescission Motions

There were no Rescission Motions lodged at the meeting.

The Mayor closed the meeting at 7:36 pm.

Councillor Bill Saravinovski
Mayor

Meredith Wallace
General Manager

Attachments

Nil

Council Meeting

8/05/2019

Item No	8.1
Subject	Brighton Le Sands Masterplan Options
Report by	Michael McCabe, Director City Futures
File	F13/288

Summary

In February 2018 Council resolved to prioritise the preparation of the Brighton-Le-Sands Masterplan. Since that time Councillors have guided the approach and have provided feedback to progress the Masterplan.

The purpose of the Masterplan is to consider a range of issues and the relationships between them to inform the future planning and design of the area.

Officer Recommendation

- 1 That Council progress further investigations and community engagement in relation to Brighton Le Sands Masterplan Option 1.
 - 2 That a detailed report in relation to the Brighton Le Sands Masterplan process, background reports, options, recommendations and community engagement process be presented to a subsequent Council meeting.
-

Background

In 2017 Bayside Council undertook a review of the role and functioning of the Brighton-Le-Sands Centre. The review indicated that the centre:

- Plays a role as a convenience and weekly shopping destination for residents:
- Includes entertainment and eateries for residents and visitors
- Has a low vacancy rate of commercial and retail shopfronts
- That some additional retail floorspace may be needed.

An analysis of similar beachside centres identified principles which could be applied to enhance the Brighton-Le-Sands centre including:

- Enhancement of a diverse retail offering that meets the needs of the local catchment and visitors.
- Increased pedestrian friendly environments with wider footpaths, more seating and informal areas.
- Reduced traffic flow and noise pollution.

- Increased public and active transport options.
- Improved connectivity to the surrounding areas and CBD.
- More short-term, free parking.

In February 2018 Council adopted the Brighton-Le-Sands Parking Strategy. At the same meeting Council also resolved to prioritise the preparation of the Brighton-Le-Sands Masterplan. The purpose of the Masterplan is to consider a range of issues and the relationships between them to inform the future planning and design of the area.

In early 2018 the Brighton-Le-Sands Working Party (BLSWP) comprising Bayside Councillors, the General Manager, Director of City Futures and staff was formed to oversee progress of the Masterplan.

In August 2018 Council engaged GM Urban Design and Architecture (GMU) to prepare a Masterplan, a detailed urban design analysis and built form study.

On 31 October 2018, representatives from GMU presented to the BLSWP about the working progress of the Masterplan for the Brighton-Le-Sands centre. That included contextual analysis, design principles, proposed vision, objectives and two options for the Masterplan:

- Option 1 proposed a high-density spine along Bay Street and The Grand Parade.
- Option 2 proposed a high-density spine along Bay Street and The Grand Parade and the green reserve to the west.

The Brighton Le Sands Working Party provided feedback to staff that further investigations into the two options be undertaken, including overshadowing impact, built form character and economic viability.

In late March 2019 Bayside Council commenced community engagement as part of the preparation of the new Bayside Local Strategic Planning Statement and made information available to the public about the extent of the Brighton Le Sands Masterplan (refer Figure 1), next steps and timeframes.



Figure 1: Brighton Le Sands Masterplan Study Area

On 3 April 2019, GMU presented an analysis of the two master planning options for Brighton-Le-Sands local centre. Councillor's expressed their preferred option in the meeting and advised Council staff to proceed on the basis that:

- Option 1 is the preferred Masterplan option, including identification of an area for Stage 1, to be considered as part of the Bayside Local Strategic Planning Statement and potentially, as part of the new Bayside Local Environmental Plan:
 - A high-density spine along Bay Street and The Grand Parade with lower height and densities in other areas
 - Mixed use development with active frontages along Bay Street and The Grand Parade (within 400m of the core area)
 - Retention of existing three storey walk-up precinct, mainly to the south of Bay Street
- Other stages will be progressed subsequent to further investigations.
- Investigate amendment to the Stage 1 boundary to include part of Crawford Road, Kurnell Street and England Street.
- A 10 storey built form along The Grand Parade has been identified as being the minimum building height to be economically viable but that further investigations be progressed in relation to:
 - Overshadowing impacts of built forms, on public open space, specifically the foreshore environment be progressed.
 - Legislative requirements in the State Environmental Planning Policy (Coastal Management) 2018.

Pending this resolution of Council, the draft Masterplan is anticipated to be on public exhibition in July 2019 following a further resolution of Council. The future Council report will consider the Brighton Le Sands Masterplan process, background reports and recommendations. This will likely result in aligning with the exhibition of draft Bayside Local Strategic Planning Statement.

Financial Implications

Not applicable	<input checked="" type="checkbox"/>
Included in existing approved budget	<input type="checkbox"/>
Additional funds required	<input type="checkbox"/>

Community Engagement

A Community Engagement Plan is being prepared by RPSgroup (Council's consultant) to provide a robust framework for seeing community and stakeholder input on the draft Master plan. The goals of this community engagement plan are to:

- Present the vision and future planning to Council's for BLS centre to enable a wide range of community members to comment and provide feedback;
- Use translated materials to reach culturally and linguistically diverse community members;
- Ensure feedback is capture from a variety of stakeholders to refine the draft Master plan; and

- Receive community feedback on Council's suggestions to solve congestion issues and to shape elements of the Master plan including the public domain, density and design.

Endorsement of the Brighton Le Sands Community Engagement Plan will be sought at a subsequent Council meeting.

Attachments

Nil

Council Meeting

8/05/2019

Item No	8.2
Subject	Bayside Council's Draft Submission on Local Character Overlays
Report by	Michael McCabe, Director City Futures
File	F10/47

Summary

NSW Planning and Environment have placed a discussion paper about local character overlays on exhibition until 20 May 2019.

The discussion paper proposes an amendment to the Standard Instrument Local Environmental Plan to provide councils with an opportunity to introduce local character overlays into their strategic planning framework. This would provide councils with an additional mechanism to strengthen local character.

Local character overlays would help preserve and celebrate the distinctive character of the Bayside LGA, however NSW Planning and Environment need to resolve implementation issues to ensure the usefulness and utilisation of this character delivery mechanism.

Officer Recommendation

That Bayside Council endorses the attached draft submission on Local Character Overlays.

Background

This discussion paper proposes an amendment to the Standard Instrument Local Environmental Plan to provide councils with an opportunity to introduce local character overlays into their strategic planning framework (see attachment 1). Local character overlays would consist of a map layer and an associated clause within a Local Environmental Plan that identifies additional assessment requirements to help preserve and enhance precincts that have been outlined as having distinctive local character. The map layer would detail the boundaries of a character area and the associated clause would establish development considerations to ensure development applications address a council's local character aspirations and development controls.

Bayside Council is an LGA with a distinctive character, accordingly we are supportive of mechanisms that allow character to be defined, celebrated and retained. Council staff support the concept of local character overlays as a delivery mechanism that strengthens local character. Council staff support mechanisms that give statutory weight to character in the development assessment process and provide a standardised approach to character across NSW.

Despite our support for local character overlays, Council staff have concerns about the implementation of local character overlays. The amount of work required to develop a local character overlay is both time and resource intensive. Community engagement, determining the regulatory burden of overlays on landowners/potential applicants, and consideration of the impact of potential downzoning would all be required to introduce a local character

overlay in the Bayside LGA. For Council to include local character overlays in our planning framework, we would likely require assistance and resources from the NSW Planning and Environment to aid this process.

Council staff are also seeking further clarification from NSW Planning and Environment on the relationship between local character overlays and various State Environmental Planning Policies (SEPPs) including:

- *State Environmental Planning Policy (Exempt and Complying Development Codes 2008*
- *State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARHSEPP)*
- *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP Seniors).*

It is not clear how the character overlays will interact with the above mentioned SEPPs, which contain planning provisions that override Bayside Council's local planning controls to allow certain types of residential development such as seniors housing and boarding houses to be developed in our LGA. Council staff believe that NSW Planning and Environment should provide further clarification on the relationship between state policies and local character overlays.

Council staff are also seeking further clarifications on some minor matters associated with defining character and statements of consistency. For further details please refer to Attachment 2.

Financial Implications

Not applicable	<input checked="" type="checkbox"/>
Included in existing approved budget	<input type="checkbox"/>
Additional funds required	<input type="checkbox"/>

Community Engagement

NSW Department of Planning and Environment have placed a discussion paper about Local Character Overlays on exhibition until 20 May 2019. Information can be accessed at:

<https://www.planning.nsw.gov.au/Policy-and-Legislation/Local-Character/Discussion-paper-local-character-overlays>

Attachments

- 1 NSW Department of Planning and Environment Discussion Paper – Local Character Overlays [↓](#)
- 2 Bayside Council's draft submission on Discussion Paper - Local Character Overlays [↓](#)



Discussion Paper – Local Character Overlays

February 2019

We wish to acknowledge Aboriginal people as the traditional custodians of this land. Through thoughtful and collaborative planning, we seek to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

February 2019

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Implementing local character into Local Environmental Plans (LEPs)

The **Local Character Planning Circular** released in January 2018 flagged preparing amendments to the Standard Instrument (Local Environmental Plan) Order 2006 (SI LEP) to establish overlays for additional considerations of local character in areas of significance. Using the SI LEP to give effect to local character strengthens local character and gives it statutory weighting.

The Department's work on local character is based on the sentiment that everywhere has character. Local character is the look and feel of the area and we should consider how it should be managed either to change, maintain or enhance that character. The introduction of local character overlays could be integrated into the broader suite of initiatives around managing change and growth to ensure it occurs within the context of how a neighbourhood looks and feels.

The purpose of this Paper is to outline an option for supporting local character within the SI LEP and to seek feedback on the proposal.

Local Character and Place Guideline

The Local Character and Place Guideline outlines what local character and place is, why it is important, and how it fits into the planning system. The Guideline aims to support the work that councils are already doing to bring about the benefits of change in neighbourhoods, cities and regions to meet the aspirations people have for their places.

Key questions

Do you think the inclusion of a standard approach to local character overlays within LEPs will be effective at balancing growth with supporting local character?

Existing use of overlays within NSW

In NSW several councils have a map layer (an overlay) in their LEP identifying character areas; however, there is no standard approach, and this doesn't yet align with the strategic plan-led planning framework. A local character overlay could effectively align the development outcomes to the strategic vision and plans that sit above the LEP.

What will a local character overlay do?

A local character overlay consists of a map layer and an associated clause within a LEP which identifies the additional assessment requirements. The map layer details the boundaries of character areas and the associated clause establishes development considerations to ensure development proposals address council's local character aspirations and development controls. This Paper proposes a standardised map layer and clause through the SI LEP.

A local character overlay could support local character through a LEP to strengthen or create a link to a standalone local character statement and/or controls that sit within a development control plan (DCP), or to exclude or vary statewide policy.

A local character overlay could have a few functions.

The map layer could:

- identify the defined character area and map its boundaries
- identify the characterisation for the area (as outlined in the Local Character and Place Guideline)
- trigger local variations and in exceptional circumstances local exclusions from statewide policy.

The clause could:

- require applicants to meet development controls within the DCP for a proposed development within the character area
- require applicants to submit a statement of consistency with the desired future character (where council has set a desired future character)
- include consideration of the statement of consistency as part of the assessment of a development application
- identify local character requirements for development proposals (additional requirements, development controls and/or statement addressing consistency with the desired future character)
- implement the local strategic planning statement reflecting the community's future vision for an area

Key questions

- Are the functions listed above helpful in supporting local character?
- Are there any other functions that a local character overlay could deliver?
- What are your thoughts on a "statement of consistency" for development applications to identify a proposal's consistency with desired future character?

Where should local character overlays be introduced?

If councils wish to support local character through their LEP they could submit a planning proposal in line with the standardised map layer and associated clause that would be included within the SI LEP Order. The Department would review all submitted planning proposals against published criteria to evaluate the benefits and impacts of introducing a local character overlay.

Character areas needn't be everywhere, only where councils and their community feel that the broader zone objectives don't provide sufficient guidance or direction to manage change while supporting local character. Further direction on local character and how to identify, describe and support it is provided in the Local Character and Place Guideline.

Key questions

- Councils – do you anticipate introducing a local character overlay into your LEP?
- Are you able to provide detail on any potential overlays to assist with developing the policy?

How will an overlay be included in the SI LEP?

A proposed amendment to the SI LEP Order would introduce an optional (standard) clause and a map layer to accommodate a local character overlay. Once this amendment to the SI LEP Order is made, then councils would be able to choose to prepare a planning proposal to adopt the clause and apply a local character overlay within their LEP.

Prior to submitting a planning proposal, it is strongly recommended that councils consult with the Department in the drafting of the map layer. Once the planning proposal has been submitted the Department would evaluate what is proposed against the criteria below.

The proposed overlay would be a map layer within the SI LEP with a supporting [standard optional clause](#) to give weight to local character considerations. Do you think this is the right approach?

Criteria for introducing a local character overlay

Where a council intends to prepare a planning proposal for a local character overlay the Department will evaluate each proposed local character overlay, the extent of the overlay and anticipated effects. The Department would establish criteria that councils must satisfy when submitting a planning proposal to add a local character overlay. These requirements would be centred on having undertaken a strategic planning process and ideally will follow councils' draft local strategic planning statement and local housing strategy. Below are draft criteria for consideration.

The below table outlines the criteria that could be submitted with any planning proposal for a local character overlay.

Table 1: Proposed criteria and supporting information for a planning proposal to introduce a local character overlay

Criteria	Indicative supporting Information
1 Proposal	<ul style="list-style-type: none"> What is the intended purpose of the overlay? (If the purpose includes varying statewide policy, additional criteria detailed in Table 2 will need to be met). What functions will the overlay seek to deliver? (i.e. introduce local character controls/exclude statewide policy/introduce a test of consistency with desired future character). What other mechanisms are being utilised to support local character? (i.e. update the controls within the DCP/implement the cultural plan & public domain improvement plan). Please provide detail (including development controls where proposed). Why is a local character overlay required, could no other mechanism within the planning system better support local character? (i.e. review of DCP controls/character statement within the local strategic planning statement). How many lots (for houses, businesses, assets) will be captured? Is it a joint proposal across local government boundaries?

		<ul style="list-style-type: none"> Will the addition of a local character overlay on the site increase the regulatory burden on the land owners/potential applicants?
2	Alignment to the strategic content	<ul style="list-style-type: none"> How does the proposed local character overlay align to the directions within the regional and district strategic plan? The character overlay must be aligned to the wider strategic context. It is important when classifying character that the broader influences are considered within regional strategic plans and in Greater Sydney, district plans. Has residential, commercial and industrial land supply been sufficiently planned for? Where a downzoning is being considered it must be demonstrated that the overall land supply needs can still be effectively met and for residential that the local housing strategy can be delivered. Has local character been raised through the integrated planning and reporting framework engagement?
3	Has community consultation on local strategic planning statements, and if applicable, local housing strategies been undertaken?	<ul style="list-style-type: none"> Summary of the feedback received on local character through local strategic planning statements engagement. Where the character area incorporates residential, summary of feedback received on local housing strategy engagement.
4	Have completed a character assessment in conjunction with their community for the area and have characterised the character area and its attributes of the place that are cherished and to be supported.	<ul style="list-style-type: none"> Provide a copy of the character assessment undertaken in accordance with the Local Character and Place Guideline Part 2 – Character assessment toolkit. Provide a summary of the community feedback received during the character assessment. Provide a copy of the desired future character statement for the area where the local character overlay is proposed.
5	Have prepared the map layer in accordance with the standard technical requirements for spatial datasets and maps and drafted a clause in accordance with the local character optional (standard) clause of the SI LEP (yet to be drafted).	<ul style="list-style-type: none"> Cadastral data and other supporting information is electronically available and can be provided with mapping to Standard Instrument Local Environmental Plan format. Proposed clause be drafted in accordance with the optional (standard) clause under the SI LEP order.

Are these criteria reasonable for determining and evaluating the result of adding a local character overlay?

Local character overlay versus complying development

Local character controls prepared for development assessment (within either the SI LEP or DCP) can not apply to complying development under relevant state-wide policy.

Within state-wide policy there is an existing mechanism that allows the introduction of local variations. This would enable, for certain Department endorsed character areas, the ability to introduce alternative development standards within the state-wide policy for the key attributes that strongly influence the character of the area. For instance, requiring a certain roof design (gable in a federation suburb).

Local variations would need to be considered by the Department in terms of their impact including any implications for uptake of complying development and additional costs where standard housing product would need to be tailored to meet the controls which increases costs for a typical project home.

In certain (limited) circumstances character areas may warrant substantial variation to complying development standards beyond the scope of a local variation. In these circumstances councils in collaboration with their community may seek a local exclusion from individual codes of the state-wide policy to better manage the desired future character of those areas. A local exclusion is an existing mechanism within the state-wide policy. Councils will be asked to encourage complying development as the preferred approval pathway elsewhere within the local government area to offset any reduction in uptake because of a local exclusion.

Criteria and supporting information for local variations and exclusions for the relevant state-wide policy

A State-wide set of clear criteria is already used to consider proposed local exclusions and variations to achieve a consistent State-wide approach. This existing approach could also be applied for local character initiated local variations and exclusions.

Requests would need to demonstrate how each of the criteria has been addressed and satisfied. If a request cannot address one or more criteria, it would not be considered for inclusion in the state-wide policy.

The following criteria are proposed for the consideration of proposed local exclusions and variations to statewide policy:

Table 2: Proposed criteria and supporting information for local variations and exclusions

Criteria	Indicative supporting Information
1 Must demonstrate supply and diversity of housing across local government area which will meet current and future needs of community	<ul style="list-style-type: none"> Current and historical complying development take up (from Local Development Performance Monitor). Statistics on development type (issued CDCs and DAs) for a five-year period. Number of lots affected specified for each code (in effect at the time of application and following the deferred period for the Low-Rise Medium Density Code). Compelling reason (see criteria 2).

- Local character assessment undertaken in accordance with the Local Character and Place Guideline indicating that relevant state-wide policy will impact on the desired future character.
- Evidence of local community and industry views.
- Provide a copy of the local strategic planning statement and if relevant the local housing strategy.
- Any consideration of a trigger for local variations will need to demonstrate that without complying development the housing needs can still be effectively met.
- For lots proposed to be excluded from the relevant statewide policy what is the rationale, and could a local variation introduce a development standard that aligned to local character attributes?
- Where within the local government area will councils be encouraging complying development as the approval pathway so as to offset any reduction in complying development uptake because of a proposed local character overlay?

2 Compelling reason for variation or exclusion

- Detailed analysis and comparison between what is proposed and the controls in the policy and the local character assessment undertaken in accordance with the Local Character and Place Guideline.
- Strategic basis within an adopted council policy, supported by evidence.
- Desired future character and why it is not supported by standards within statewide policy.
- Providing real examples and where applicable case studies.
- Modelling of existing and proposed controls, shadows, impacts on neighbours (where dealing with heights, setbacks, location of upper level).
- Evidence of local community and industry views from preparation of strategic plans where high standard of consultation has been recently undertaken (including explanation of impact on property values).

3 Variation or exclusion is quantifiable and can be mapped - map prepared in accordance with the standard technical requirements for spatial datasets and maps

- Cadastral data and other supporting information is electronically available and can be provided with mapping to Standard Instrument Local Environmental Plan format.

All requests will be reviewed by the Department of Planning and Environment in consultation with the relevant council. Where a request for a local variation or exclusion is endorsed by the Minister, it will be included in the next draft amendment to the relevant statewide policy. The Minister may seek advice from the Greater Sydney Commission or the Independent Planning Commission with regards to making a decision on permitting a variation or exclusion. In preparing draft amendments, the Department may consult further with the relevant council and its community.

Are these criteria appropriate for determining a local character variation or in exceptional circumstances an exclusion?

Have your say

This discussion paper outlines an option for supporting local character within the SI LEP. A local character overlay could support local character through the SI LEP to strengthen or create a link to a standalone local character statement and/or controls that sit within a DCP or for statewide policy.

The Department of Planning and Environment welcomes feedback.

How to make a comment

This discussion paper is available on the Department of Planning and Environment's website at www.planning.nsw.gov.au/localcharacter

You can make a comment online at the website or you can write to:

Director, Local Planning Policy

NSW Department of Planning and Environment

GPO Box 39, Sydney NSW 2001

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- how personal information is defined under the PPIP Act - it includes but is not limited to your name, address and email address,
- the purposes for which the Department collects personal information, and
- how personal information collected by the department will be used.

When you make a submission, we will publish:

- the content of your submission – including any personal information about you which you have chosen to include in those documents, and
- a list of submitters, which may include your name and your suburb or town.

We will not publish offensive, threatening, defamatory or other inappropriate material. If you do not want your personal information published, please do not include any personal information in your submission. If you do not want your submission published at all, please note this in your submission.



17 April 2019

Our Ref: 19/128871
Contact: Clare Harley 0404 163 594

Alison McLaren
Director, Local Planning Policy
NSW Department of Planning and Environment
GPO Box 390
Sydney NSW 2001

To Alison McLaren,

Re: Submission to Discussion Paper – Local Character Overlays

Bayside Council welcomes the opportunity to comment on the Local Character Overlays Discussion Paper. Council supports initiatives to conserve and enhance local character including character overlays, however Council believes that implementation issues need to be resolved to ensure the practicality and utilisation of this character delivery mechanism. The proceeding submission focuses on four key issues:

- The application of local character overlays in the Bayside Local Government Area (LGA)
- The Relationship of local character overlays with State Environmental Planning Policies (SEPPs)
- How a statement of consistency may work
- The built environment features that are considered when assessing character

Details on these issues are provided below.

Strengthening local character is Bayside

Bayside Council is an LGA with a distinctive character, accordingly, Council is supportive of mechanisms that allow character to be defined, celebrated and retained. Council supports the concept of local character overlays as a delivery mechanism that strengthen local character. Council also supports mechanisms that give statutory weight to character in the development assessment process as well as mechanisms that adopt a standard approach to character across NSW, as standardisation can help promote a clear and consistent policy environment. Council believes that the detailed nature of the guidelines will help ensure

Eastgardens Customer Service Centre
Westfield Eastgardens
152 Bunnerong Road
Eastgardens NSW 2036, Australia
ABN 80 690 785 443 Branch 004

Rockdale Customer Service Centre
444-446 Princes Highway
Rockdale NSW 2216, Australia
ABN 80 690 785 443 Branch 003
DX 25308 Rockdale

Phone 1300 581 299
T (02) 9562 1666 F 9562 1777
E council@bayside.nsw.gov.au
W www.bayside.nsw.gov.au

Postal address: PO Box 21, Rockdale NSW 2216



Telephone Interpreter Services - 131 450

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character overlays will be used for their intended purpose and not as a means to discourage development.

Despite Council's support of local character overlays, we have concerns about implementation. The amount of work required to develop local character overlays is both time and resource intensive. For example, community engagement, determining the regulatory burden of overlays on land owners/potential applicants, and consideration of the impact of potential downzoning are all timely and costly exercises. For Council to include local character overlays in our planning framework, Council would require assistance from the NSW Planning and Environment to aid this process.

At this point in time, Council favours alternate mechanisms to promote local character in the Bayside LGA. Alternative mechanisms include the integration of detailed planning and design guidance in our Development Control Plans and the master planning of key precincts.

Relationship between character overlays and the broader strategic framework

Council appreciates that the relationship between *State Environmental Planning Policy (Exempt and Complying Development Codes 2008)* (Codes SEPP) and local character overlays has been considered as part of the Discussion Paper. Council believes discussions about the Codes SEPP are pertinent given this SEPPs potential to undermine character areas, particularly in character areas where the Low-Rise Medium Density Code applies. Without an exemption from the Codes SEPP, the capacity of local character overlays to strengthen character is limited.

While Council understands that the discussion paper outlines a mechanism that councils could use to seek a local variation or exclusion from the Codes SEPP, the criteria that needs to be met is overly onerous. Seeking an exclusion would be a timely and recourse intensive process. Without confirmation that an exemption will be granted, Council would be hesitant to undertake this process. Given that Council is of the opinion that local character overlays will have limited impact in areas where the Codes SEPP applies, the onerous process required to seek a local variation or exclusion would disincentive Council to include a local character overlay in our Local Environmental Plans.

The Discussion Paper does not provide information about the relationship between local character overlays and *State Environmental Planning Policy (Affordable Rental Housing) 2009* (ARHSEPP) and *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* (SEPP Seniors). It is not clear how the character overlays will interact with the state planning provisions that override Council's local planning controls. Both SEPP Seniors and ARHSEPP allow residential development types such a seniors housing and boarding houses to be developed in our LGA. Council believes that for local character overlays to be successful, the ARHSEPP and SEPP Seniors would need to be amended to ensure the residential development permitted under these planning controls responds to local character.

Statement of consistency

The Discussion Paper identifies that a local character overlay clause could *require applicants to submit a statement of consistency with the desired future character (where council has set a desired future character)*. A statement of consistency can at times be subjective and the production of statement may be overly onerous on applicants who are seeking approval for minor developments. Council would like further clarification on how the subjective nature statement of consistencies could be minimised and the type of development that would trigger the preparation of a statement of consistency.

Features of local character

The Discussion Paper outlines the need to undertake a character assessment in accordance with NSW Planning and Environment's *Local Character and Place Guideline Part 2 – Character assessment toolkit* if a council wishes to introduce local character overlays or seek a local variation or exclusion from the Codes SEPP. Council believe that Part 2 of the guidelines should include appearance and aesthetics as part of the assessment criteria and the *Identifying an Areas Character Wheel* does not make reference to the 'look' of an area.

Should you have any further enquires on this submission or wish to discuss these matters in more detail please contact Emma Clinton on 9562 1802 or emma.clinton@bayside.nsw.gov.au.

Yours faithfully

Michael McCabe
Director, City Futures

Council Meeting

8/05/2019

Item No	8.3
Subject	Update - Arncliffe Youth Centre
Report by	Meredith Wallace, General Manager Debra Dawson, Director City Life
File	F18/680

Summary

The Arncliffe Youth Centre is currently under construction, this report provides an update on progress and the steps ahead.

Officer Recommendation

- 1 That the report be received and noted.
 - 2 That the recommended changes be made to the floor plans of the Arncliffe Youth Centre to provide maximum flexibility for future use.
 - 3 That an additional \$154,000 be included in the 2019/2020 City Projects program for the Arncliffe Youth Centre from the Arncliffe Youth Centre reserve to pay for the recommended changes.
-

Background

The Arncliffe Youth Centre is being constructed in Wardell Street, Arncliffe in conjunction with the housing development on the Princes Highway site. The construction is due to be completed by Easter 2020.

The Centre will be a high quality facility that accommodates a wide range of organised sport and informal spaces. Features include two indoor multi-purpose courts, one with a grandstand and additional informal use rooms.

An update was provided at the GM Briefing Session on 17 April 2019 on construction to date and the proposed minor changes to the floor plan to provide maximum flexibility for the future use of the Youth Centre.

The proposed changes include:

- 1 Provision of storage under the grandstand;
- 2 Change to the floor finish in the Multi-cultural room from carpet to vinyl;
- 3 Extension of the music room;
- 4 Change to the visual arts space floor plan;
- 5 Deletion of nib wall in multi-cultural room to allow for more flexibility;

- 6 The addition of toilets to Level 1;
- 7 Provision for additional flexibility for the use of the courts.
-

Financial Implications

- Not applicable ☐
- Included in existing approved budget ☐
- Additional funds required ☒ In 2019/2020 budget, to be transferred from the Arncliffe Youth Centre Reserve.

A transfer of funding from the Arncliffe Youth Centre Reserve is required to implement the above changes. The costing of the changes is listed in the table below.

Provision of storage under grandstand	\$15,000.00
Change to floor finish Multicultural room	\$10,000.00
Extension of Music Room and delete nib wall	\$3,000.00
Addition of toilets on Level 1	\$118,000.00
Additional sports equipment inserts	\$8,000.00
Total	\$154,000.00

Attachments

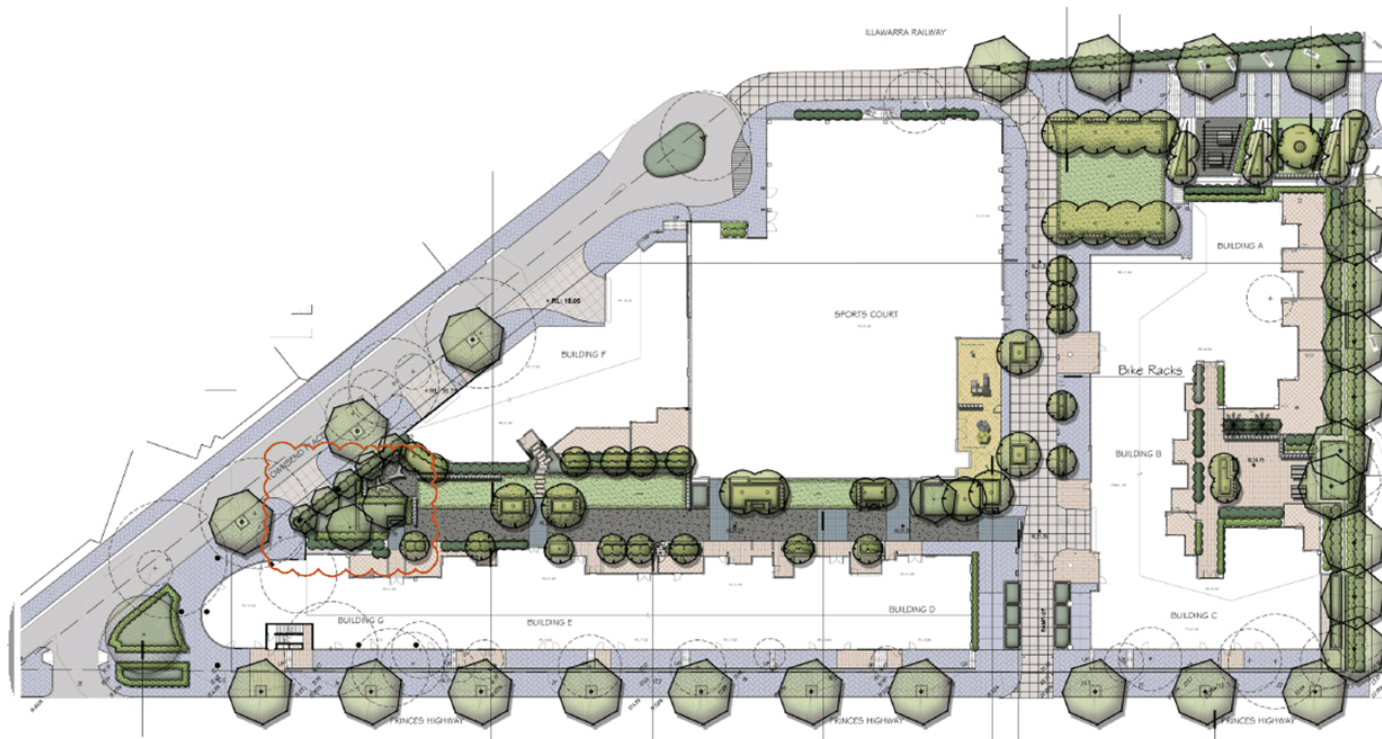
GM Briefing Presentation - Arncliffe Youth Centre [↓](#)



Update Arncliffe Youth Centre



Overall Site Plan



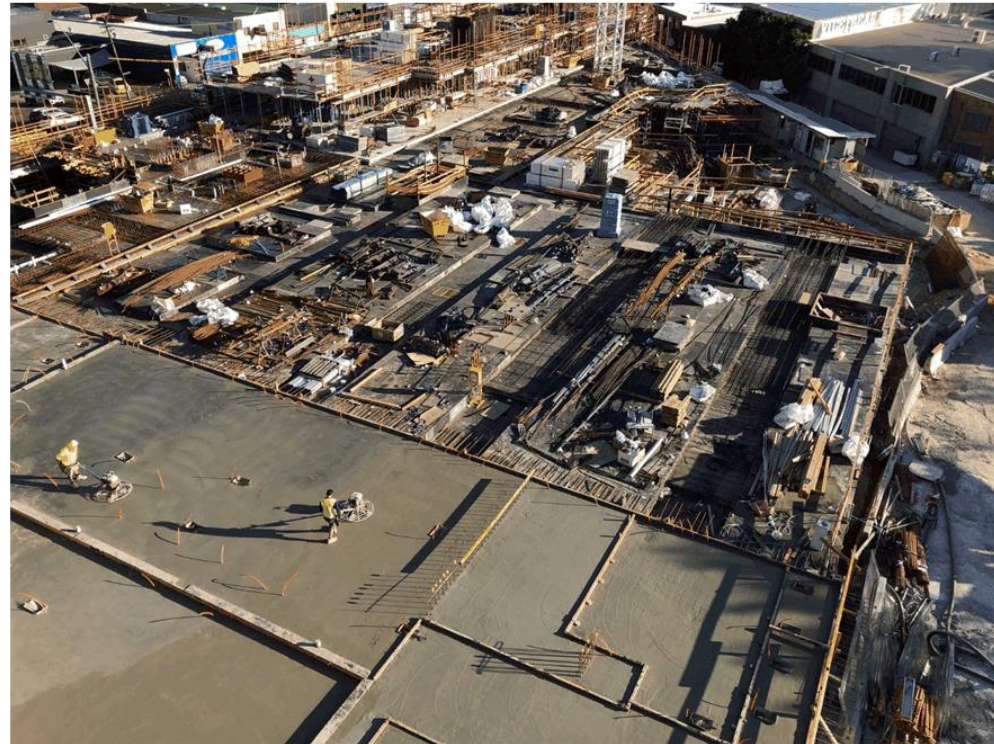
Photos from construction site



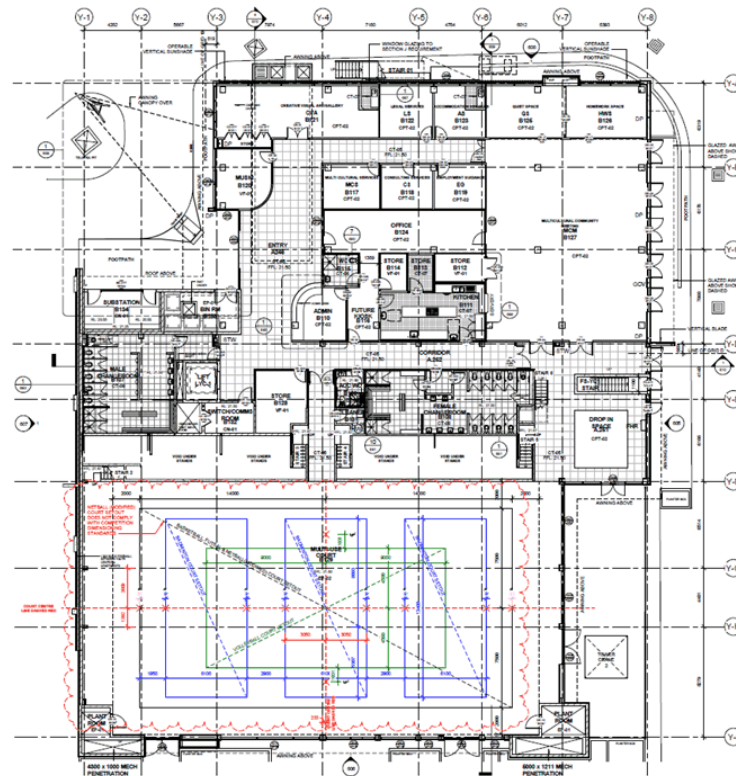
Photos from construction site



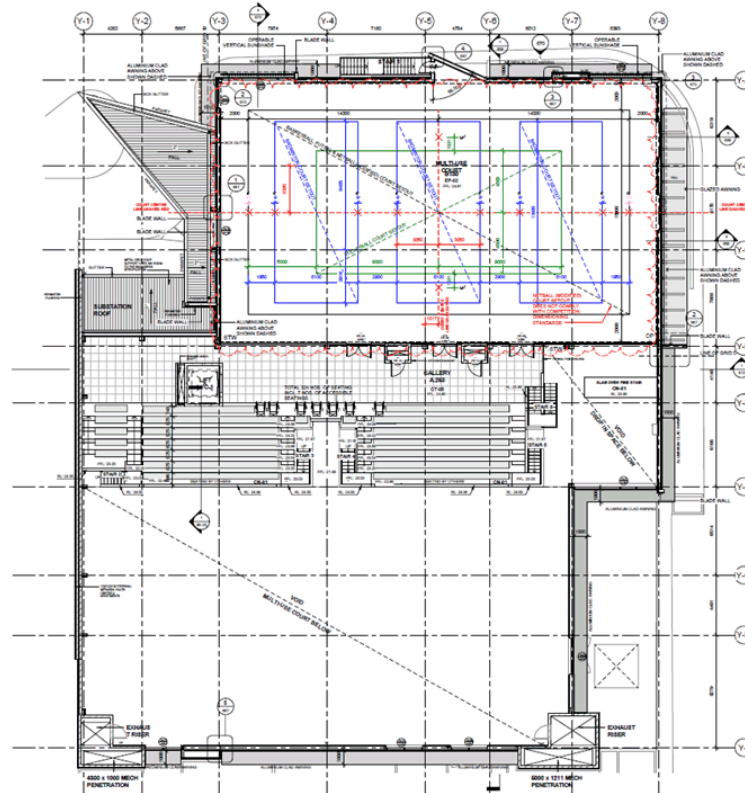
Photos from construction site



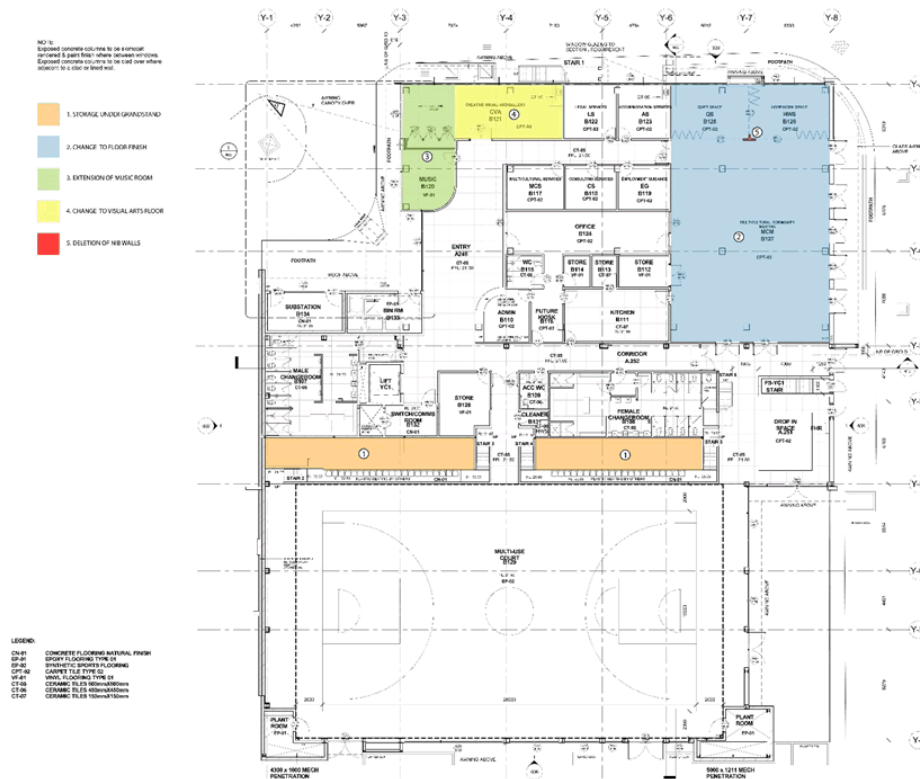
Youth Centre Ground Floor Plan



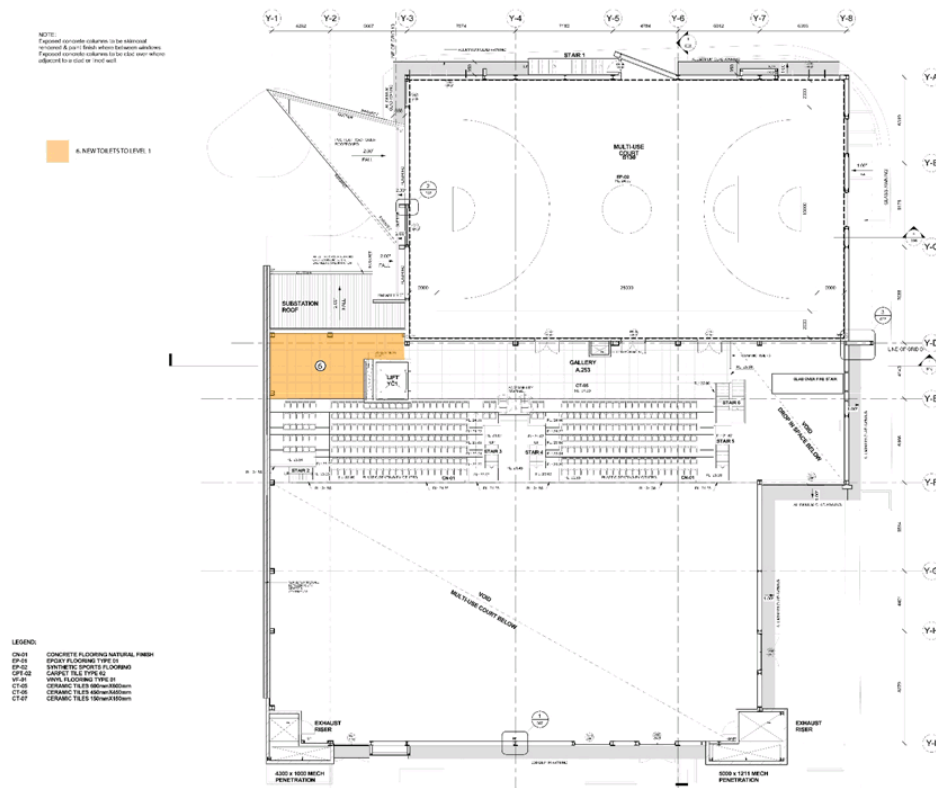
Youth Centre First Floor Plan



Youth Centre Ground Floor Plan



Youth Centre First Floor Plan

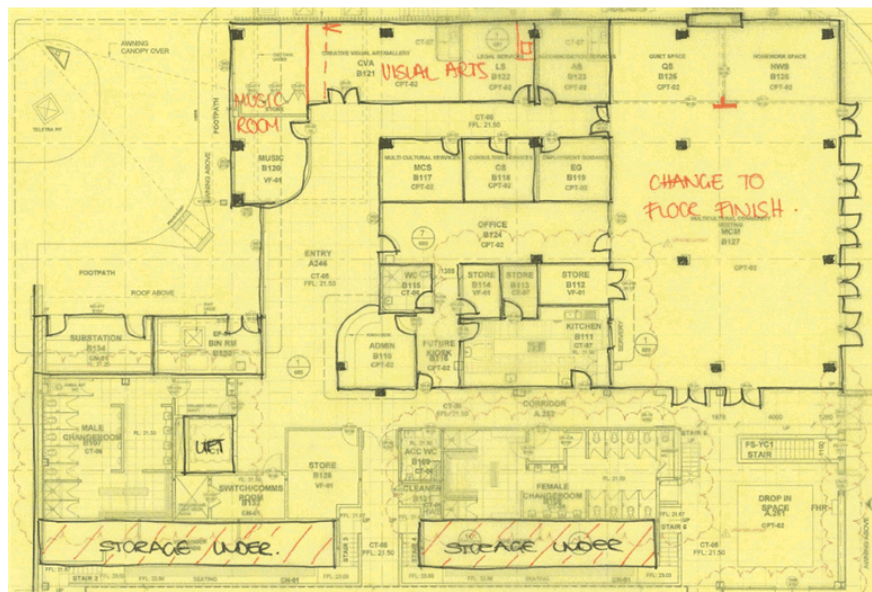


Proposed Changes to floor plan



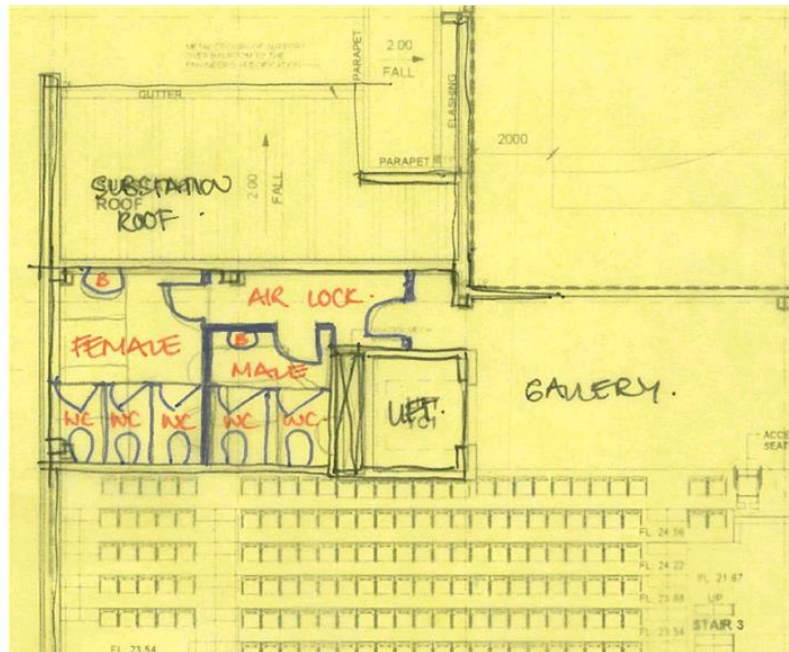
1. Storage under grandstand;
2. Change to floor finish in Multicultural Room;
3. Extension of Music Room;
4. Change to Visual Arts floor plan;
5. Deletion of nib wall to allow for more flexibility;
6. New toilets to Level 1;
7. Provision for additional flexibility to maximise numbers of courts;

Changes to floor plan



- ▶ Provide storage under grandstand - \$15,000
- ▶ Additional cost to change floor finish \$10,000
- ▶ Extend music room and delete wall nibs - \$3,000
- ▶ Provision for additional sports equipment - \$8,000
To include:
 - Basketball;
 - Futsal;
 - Volleyball;
 - Badminton;
 - Netball.

Additional toilets – level 1



- Additional cost for inclusion of toilets to Level 1 - \$118,000

Budget



Storage under grandstand	\$15,000.00
Change to floor finish Multicultural room	\$10,000.00
Extension of Music Room and delete nib wall	\$3,000.00
New toilets on Level 1	\$118,000.00
Extra over provision for sports equipment	\$8,000.00
Total	\$154,000.00

Next steps...



- ▶ GM Briefing – 17 April 2019;
- ▶ Council Meeting – 8 May 2019;
- ▶ Completion of construction – Easter 2020.

Council Meeting

8/05/2019

Item No	8.4
Subject	Road Closure and Sale of a stratum portion of Chalmers Crescent, Mascot
Report by	Michael McCabe, Director City Futures
File	SF19/793

Summary

Chalmers Crescent, Mascot comprises a Council owned public cul-de-sac road which provides a dual lane bitumen sealed roadway and turning circle, as shown at Attachment 2.

Neustein Urban (on behalf of the purchaser F. Mayer Imports Pty Ltd) seek to acquire a 1118 sqm part-portion of the cul-de-sac. The subject portion of road is confined to the Eastern portion of Chalmers Crescent.

A development Application lodged in October 2015 was determined with consent in March 2017 for the development of a commercial precinct incorporating adjoining contiguous lots currently owned by the purchaser. The Development Consent was subject to the inclusion of the subject portion of Chalmers Crescent being incorporated into the development.

This report will seek to obtain Council Resolution to enter into a transaction with the Purchaser (F Mayer Imports Pty Ltd) to dispose of the subject parcel of land at a market value consideration arrived at via the appointment of an independent valuation assessment.

Officer Recommendation

- 1 That the attachments to this report be withheld from the press and public as they are confidential for the following reason:

With reference to Section 10(A) (2) (d)(i), (d)(ii) of the Local Government Act 1993, the attachments relate to commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it. It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with and commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the Council. It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.
 - 2 That Council approve in principle the closure of the 1118 sqm portion of Chalmers Crescent, as shown in Confidential Attachment 6, and to proceed with the road closure process under Section 38 of the Roads Act 1993.
 - 3 That Council approve the transfer and sale of the 1118 sqm portion of Chalmers Crescent, (as shown in Confidential Attachment 6) to F. Mayer Imports Pty Ltd for the purchase price (as shown at Confidential Attachment 5) subject to final approval of the Road Closure upon completion of the prescribed road closure process.
-

- 4 That Council enter into an appropriate deed, with key terms referenced at Table 1 within the body of this report.
 - 5 That Council authorises the General Manager to approve the road closure upon completion of the prescribed road closure process.
 - 6 That Council authorises the General Manager to finalise the commercial terms associated with the transfer and sale of the closed road and execute all documentation to affect the transfer of the land on the terms outlined in this report.
-

Background

Neustein Urban on behalf of F. Mayer Imports Pty Ltd (Purchaser) to seek to acquire a 1118 sqm part-portion of Chalmers Crescent. The subject portion of road is shown in Confidential Attachment 6 and adjoins 16 parcels of land currently owned by the Purchaser shown in confidential attachment 3.

The Purchaser approached the former Botany Bay Council to commence negotiations for the closure and purchase of Chalmers Crescent which resulted in the portion of road being included in the Development Application.

Discussions recommenced with Bayside Council in 2017 where the proposed purchase price was reached in early 2019.

Development Consent for the Site

The purchaser currently owns several parcels (16 adjoining titles), as shown in confidential Attachment 3 and has an approved Development Application (DA-2015-191) to permit:

- a commercial development
- 3 car parking levels
- Incorporating the consolidation of 16 purchaser owned lots to create the subject site with an unimproved area of 13,385sqm.
- Specifically, the DA contemplates four x 8 storey commercial towers with a total GFA of 37,805 sqm over the consolidated parcel of land
- Parking provisions encapsulating 438 vehicles have been permitted.
- The Development contemplates the inclusion of the 1118sqm portion of Chalmers Crescent, as shown at confidential Attachment 3.

Whilst F Mayer imports are to obtain the ownership of 1,118sqm of the cul de sac from Bayside Council under the proposed agreement, they do not enjoy the full unencumbered rights to all of the land acquired. A portion of the proposed acquisition will be maintained as a right of carriageway to allow use by the general public as a cul-de-sac, parts of existing land owned by F Mayer imports will also form part of this right of carriageway to allow for a new cul de sac turning head, to be realised, as shown at Attachment 4.

In turn, F Mayer Imports would receive the FSR rights from the subject land.

Determination of Purchase Price

Despite extensive negotiations, it was agreed to appoint an independent valuer to assess the value of the subject land based on an agreed methodology, being the Before & After method. This resulted in both parties jointly appointing an independent valuer to determine a purchase price subject to Council Resolution. Please refer to Attachment 7 for a copy of the Final Valuation report.

The Purchase Price has now been agreed in principle, subject to Council approval and is shown at Confidential Attachment 5.

The Road Closure Process and Current Challenges

Recent amendments to the Roads Act 21993 granted Council the ability to approve the closure of Council owned Public Roads. The amendments to the Roads Act 1993 aligned with the introduction of the Crown Lands Management Act 2016. The amended legislative requirements for Councils in relation to road closures is outlined in Part 4 of the *Roads Act 1993*.

The changes to the Act were, in part, to enable a more efficient Council road closure process. However some recent challenges have arisen within the LRS' procedural requirements resulting from their misalignment with the updated legislation, where the LRS has requested the documentation submitted for road closures to reflect the former legislation, requiring Crown Lands approval.

This may cause some delay within the road closure process and subsequent ability to transact. However, Council will seek to follow the due road closure process in its best endeavour to transact on the subject parcel. The following key steps are to be undertaken in order to facilitate this:

- Council to enter into a Road Deed with the purchaser to agree commercial terms, these terms are shown at Table 1 below.
- Council to undertake the Road Closure process, prescribed in the Roads Act 1993.
- Further Council report to formally close the road.
- Registration of the Road Closure Plan.
- Notification of the road closure in the Government Gazette.
- Issue of Certificate of Title (the land being classified as operational land, under Section 43 of the Roads Act 1993),
- Council may then transact the subject parcel of land.

Table 1. Key Conditions

Condition	
Price	As shown as the Price at Confidential Attachment 5
Right of Carriageway	The owner of the subject land is to maintain, keep clean and operational the right of carriageway to the satisfaction of Council.

Condition	
Costs	The purchaser is responsible for all costs associated with the transaction
Works associated with the closure	The purchaser is responsible for the delivery of all works associated with the road closure, such as relocation of services etc.
Special Conditions	<p>Entering into a deed subject to conditions precedent, these conditions include (but are not limited to) the following:</p> <ul style="list-style-type: none"> • Council approval to the road closure, post the legislative assessment under the Roads Act 1993. • The Government Gazette of the Road Closure • Issue of the Certificate of Title • Creation of the Right of Carriageway

Financial Implications

Not applicable ☒

Included in existing approved budget ☐

Additional funds required ☐

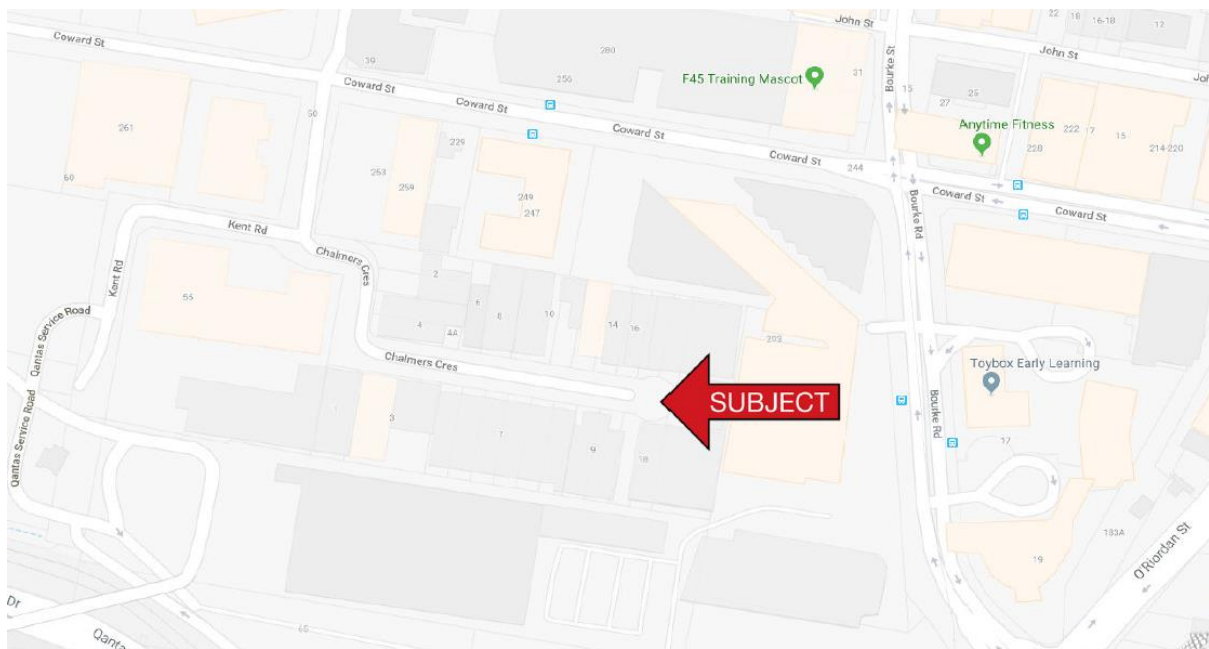
The purchaser will re-imburse Council the costs associated with the Road Closure. Money received by Council from the proceeds of the sale of the subject land cannot be used by the council except for acquiring land for public roads or for carrying out road work on public roads.

Community Engagement

Public notification will be undertaken as part of the statutory road closure process under the provisions of the Roads Act 1993.

Attachments

- 1 Calculation of Land Area for Post Acquisition Land Area (confidential)
- 2 Chalmers Crescent Location Maps [↓](#)
- 3 F Mayer Imports Current Land Deposited Plan (confidential)
- 4 Apportionment of Land Post Acquisition (confidential)
- 5 Chalmers Crescent Valuation Rationale (confidential)
- 6 Chalmers Crescent Survey Plan General (confidential)
- 7 Final Valuation (confidential)

Chalmers Crescent Location Maps

Council Meeting

8/05/2019

Item No	8.5
Subject	Proposed Naming of New Roads as part of the development at 152-200 Rocky Point Road, Kogarah (formerly Darrell Lea)
Report by	Michael McCabe, Director City Futures
File	F19/68

Summary

Council has received a request seeking the naming of two new roads in the Kogarah locality. The road naming is required for the new addressing allocation purposes of the newly developed residential buildings within the development at 152-200 & 206 Rocky Point Road, Kogarah - DA-2017/224.

The first road is a newly formed road within the development and will be dedicated to Council as a public road. This road has a West-East direction, and connects Rocky Point Road to the West of the site and the unnamed lane to the East of the site, and is identified as Lot 3 on the attached "Amended draft Subdivision Plan, Stage 2" (Attachment 1).

The second road runs alongside Scarborough Park, in a North-South direction commonly referred to as 'Production Lane,' however the name was not officially recorded by the GNB NSW and needed to be named according to the requirements of NSW Address policies. This is a public road without a name as shown on attachment 2 – Registered DP 848298. The name Production Lane was submitted to the GNB NSW for preapproval and was objected to based on not complying with the main principle for road naming for uniqueness and duplication.

Bayside officers from the Community Capacity Building and Community History teams have prepared a list of proposed road names which are connected to the area historically as well as names with Aboriginal Language origins. The suggested list were submitted to the GNB for preapproval under the Addressing Guidelines.

Further to that the following two names are recommended by officers from the Community Capacity Building and are proposed to Council for endorsement; "**Garrigarrang Avenue**" for the new formed road within the development with West-East direction; and "**Midjuburi Lane**" for the roadway between the eastern end of Production Avenue and the western edge of Scarborough Park.

The names have an Eora Nation Language origin, which is associated with the Bidjegal Clan and the local area. The use of the words for naming of the new roads was approved by the Metropolitan Local Aboriginal Land Council (MLALC).

Officer Recommendation

That Council endorse the following road names "Garrigarrang Avenue" and "Midjuburi Lane" for the new roads located in the area of the developments at 152-200 & Rocky Point Road, Kogarah.

Background

Under the provision of the Roads Act 1993 and the Roads Regulation 2008, Local Governments are responsible for naming all Regional and Local roads.

The outlined road naming process follows the requirements of NSW Address Policy and the NSW Addressing User Manual, endorsed by the GNB NSW.

The first proposal of new names for the roads were submitted to Council for consideration by the developing company of the site at 152-200 & 206 Rocky Point Road, Kogarah - Rocky Point Road Development Pty Ltd. The proposed names were checked with the GNB NSW for meeting the principles of Road naming. The names have been objected to for not meeting the main principle for Uniqueness and Duplication in proposing a new road name, as follows;

Lea – Objection: duplicated with Lee Avenue approximately 5km away in Beverly Hills.

Rocklea – Objection: duplicated with Rocklea Crescent approximately 6km away in Sylvania.

Production – Objection: duplicated with a Production Avenue in Kogarah, also a Production Road approximately 4km away in Taren Point

Subsequently Council officers from the Community Capacity Building and Community History teams have researched a list suggesting new road names in the area of Kogarah. The list was submitted to the GNB for preapproval and the preapproved list is provided below;

Garrigarrang – (Sea) Word of Eora Language Nation origin

Midjuburi – (Lilly Pilly) Word of Eora Language Nation origin

Daringyan – (Sting ray) Word of Eora Language Nation origin

Currey – William Matthew Currey (1895 – 1948) enlisted to fight in World War I, serving with the AIF from 1916 until 1919. He was awarded the Victoria Cross – the highest award for acts of bravery during wartime – for his part in the Australian attack on Peronne. After the war, William Currey moved to 22 Percival Street, West Kogarah, a house he named “Peronne”. He was employed with the NSW Railways, became active in the Australian Labor Party, and, in 1941, stood successfully as the Labor candidate for Kogarah in the Legislative Assembly. William Currey served as the NSW Member for Kogarah until his death in 1948. The Australian War Memorial includes the following information about William Currey’s Victoria Cross:

In the attack on Peronne, 1 September 1918, Currey's company was taking casualties from a field gun at close range. He ran forward under fire, captured the gun and killed the crew. Later, when the advance was checked by an enemy strongpoint, Currey moved around the flank with a Lewis gun, inflicting casualties and dispersing the enemy. Early next morning he volunteered to relay orders to an isolated unit: proceeding into no man's land, he called out, drawing enemy fire. Despite being gassed, he returned safely.

Kennerley – The Darrell Lea factory site was originally part of a land grant made to Alfred Kennerley. Kennerley was the first European owner of this land.

Berghofer – The most locally significant European settler on this land was Wilhelm Berghofer, a German migrant who came to Australia in the 1850s. He purchased land off Rocky Point Road, Kogarah, (near today’s Production Avenue), in 1873 and established a market garden on the land. Wilhelm Berghofer was very active in the local community, and was one of the founding members of St Paul’s Anglican Church.

Darrell Lea – A name that acknowledges the presence in the past of the Darrell Lea Chocolate factory

Liquorice – after a popular Darrell Lea product

Lollipop – after a popular Darrell Lea product

Bullet – after a popular Darrell Lea product

The names **Garrigarrang** and **Midjuburi** proposed for Council's endorsement are shortlisted from the above list.

As per the Addressing standards for road naming (AS/ NZS 4819:2011 Rural and Urban Addressing) each road should have a road type attached to the name, and the most suitable road type is "Avenue" for Garrigarrang described as "*Broad, open ended roadway, usually planted on each side with trees*" and Midjuburi "Lane" stated as "*A narrow way between walls, buildings or a narrow country or city roadway*".

Following Council's endorsement of the new road names, the proposal will be advertised on the Internet as per the Roads Regulation 2018. Under section 7, the roads authority that proposes to name or rename a road must publish notice of the proposal in a local newspaper or on the roads authority's website.

The final submission of the road names for adoption and gazettal will be carried out through the medium of the NSW Online Road Naming System, designed for use by road naming authorities in NSW, particularly local government and aligned with the requirements of the NSW Address Policy and NSW Addressing User Manual.

Financial Implications

Not applicable	<input checked="" type="checkbox"/>
Included in existing approved budget	<input type="checkbox"/>
Additional funds required	<input type="checkbox"/>

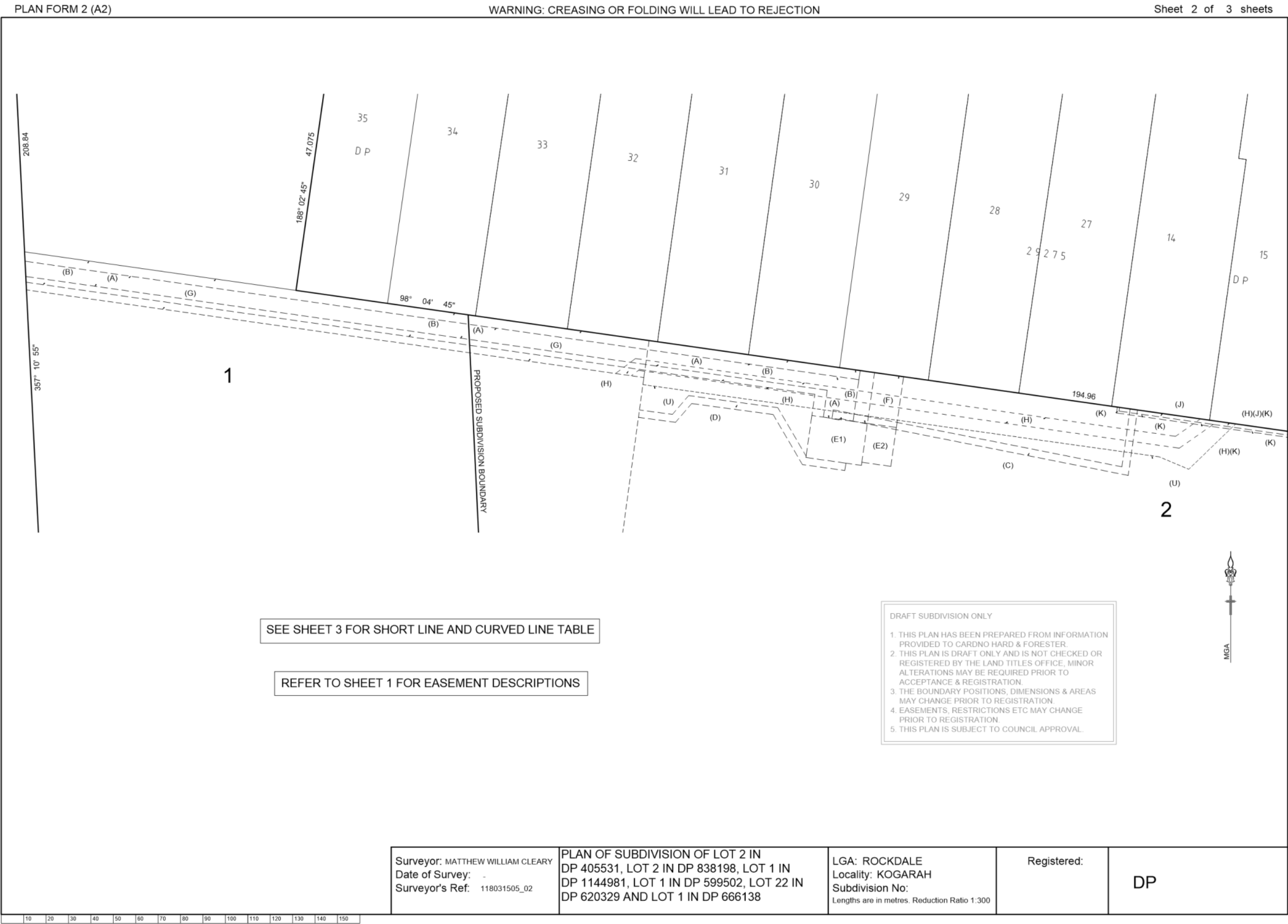
Community Engagement

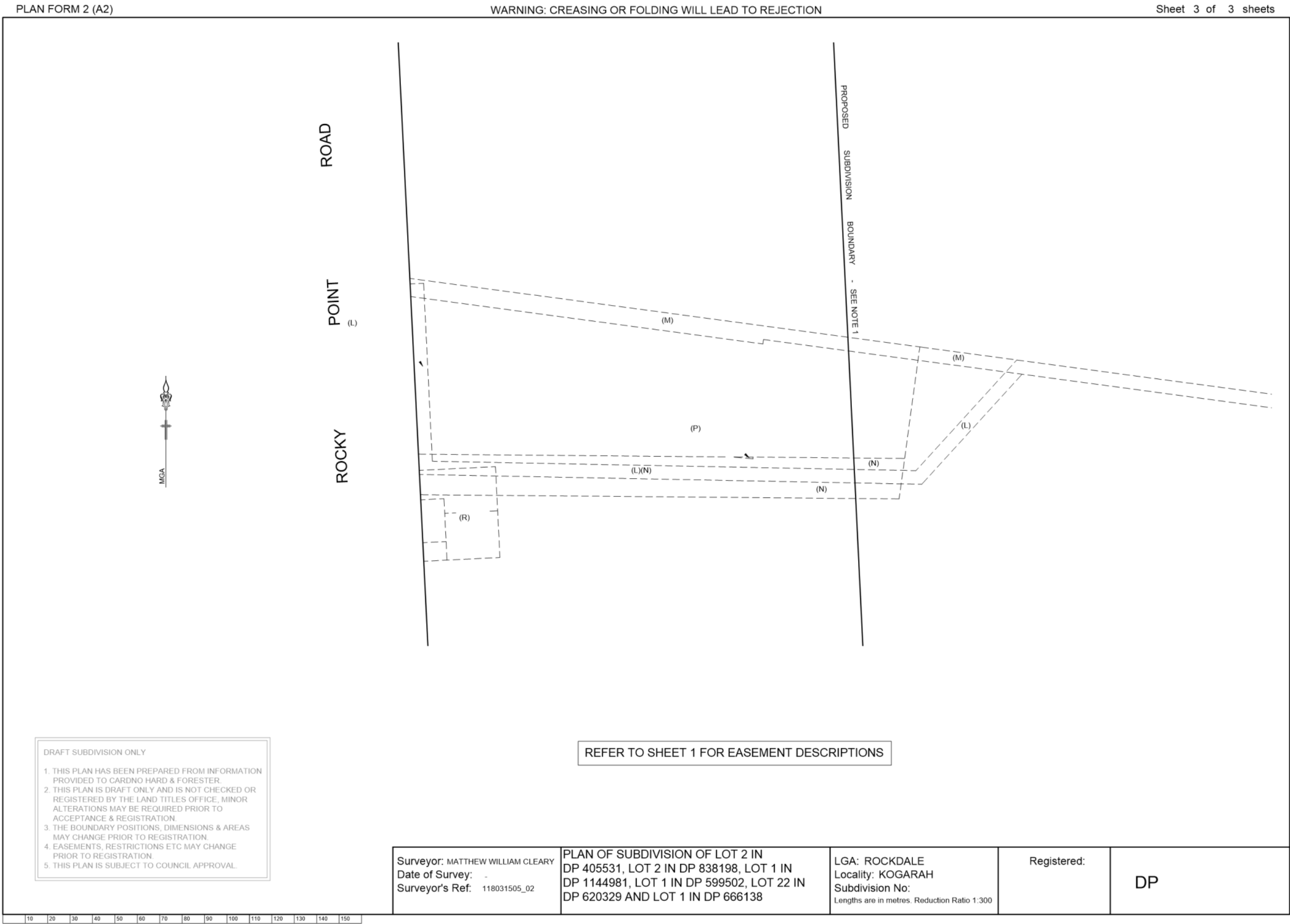
The proposed naming of new roads will be advertised on Bayside Council web page Public Notices for a period of 28 days.

Attachments

- 1 Amended Draft Subdivision Plan Stage 2 [↓](#)
- 2 Registered DP 848298 [↓](#)
- 3 Map of the Location of the Proposed New Roads [↓](#)







Req:R860486 /Doc:DP 0848298 P /Rev:07-Aug-1995 /Sts:OK,OK /Prt:22-Jan-2014 09:38 /Pgs:ALL /Seq:1 of 1
Ref:ia:rock-inash Tech Services /Src:W



Council Meeting

8/05/2019

Item No	8.6
Subject	Quarterly Budget Review Statement - 31 March 2019
Report by	Michael Mamo, Director City Performance
File	F09/744

Summary

The Quarterly Budget Review Statement provides information on how the Council is tracking against the original budget as adopted in Council's Operational Plan for 2018-19. It shows the revised estimated income and expenditure for the year against the original and previously revised budget estimates of annual income and expenditure and includes recommendations regarding changes to the adopted revised budget to give a projected year end result.

Should the proposed variations contained within this report be adopted, the March Quarter Review maintains the forecast unrestricted cash surplus of \$12,218 for the Financial Year ended 30 June 2019.

The March Quarter Review Statements will be issued as a supplementary attachment to this report.

Officer Recommendation

- 1 That the Quarterly Budget Review Statement by the Manager Finance for the quarter ended 31 March 2019 be received and noted.
 - 2 That in accordance with *Clauses 203 and 211 of the Local Government (General) Regulations 2005*, the proposed revotes and variations to the adopted revised budget detailed in the attachment to this report are adopted by Council and the changes to income and expenditure items be voted.
 - 3 That the projects identified in the report, as being deferred from the 2018/19 budget in the March 2019 Quarterly Budget Review are to be included in the draft 2019/20 budget for adoption at the June council meeting.
-

Background

In December 2010 the Office of Local Government released 'Quarterly Budget Review Statement for NSW Local Government' guidelines, which set out the reporting format that NSW councils are required to use for the quarterly financial progress reports to Council.

In compliance with the requirements of Clause 203(2) of the Regulations, the Responsible Accounting Officer must prepare and submit to Council a budget review statement and form an opinion as to whether the statements indicate that the financial position of the Council is satisfactory. The Manager Finance has been delegated as the Responsible Accounting Officer by the General Manager.

The Quarterly Budget Review Statement provides information on how the Council is tracking against its originally adopted budget in the Operational Plan 2018/19. It shows the revised estimated income and expenditure for the year against the original estimate of annual income and expenditure as shown in the Plan and includes recommendations regarding changes to budget to give a projected year end result.

Financial Implications

- | | | |
|--------------------------------------|-------------------------------------|---|
| Not applicable | <input type="checkbox"/> | |
| Included in existing approved budget | <input checked="" type="checkbox"/> | Budget transfers and transfer to the 2019/20 draft budget are included in the proposed variations. |
| Additional funds required | <input checked="" type="checkbox"/> | All variations in the March Quarter review are funded by either reserve movements, additional revenue or overall savings. |
-

Community Engagement

Not applicable

Attachments

Nil

Council Meeting

8/05/2019

Item No	8.7
Subject	Statutory Financial Report for March 2019
Report by	Michael Mamo, Director City Performance
File	F09/605

Summary

This report is provided in accordance with the Local Government (General) Regulations, 2005, Division 5, paragraph 212 and s625 of the Local Government Act, 1993.

The necessary certificate by the Responsible Accounting Officer is included in this report and the Statutory Financial Reports are presented as follows:

- Investment Performance against Benchmark
- Statement of Bank Balances
- Schedule of Investments

As at 31 March 2019, Bayside Council had \$421.8m in cash and investments with an adjusted portfolio return on investments of 2.79%. Our income and expenditure cash-flow movements for the period primarily comprised the following:

- Income from operating activities totalled \$11.9m from rates, interest, grants, sale of assets and development planning contributions.
- Expenses from operating activities totalled \$15.2m for payments for employee costs, utilities, waste, contract and infrastructure work.

The restricted cash and investments funding dissection will be included in a future report to Council.

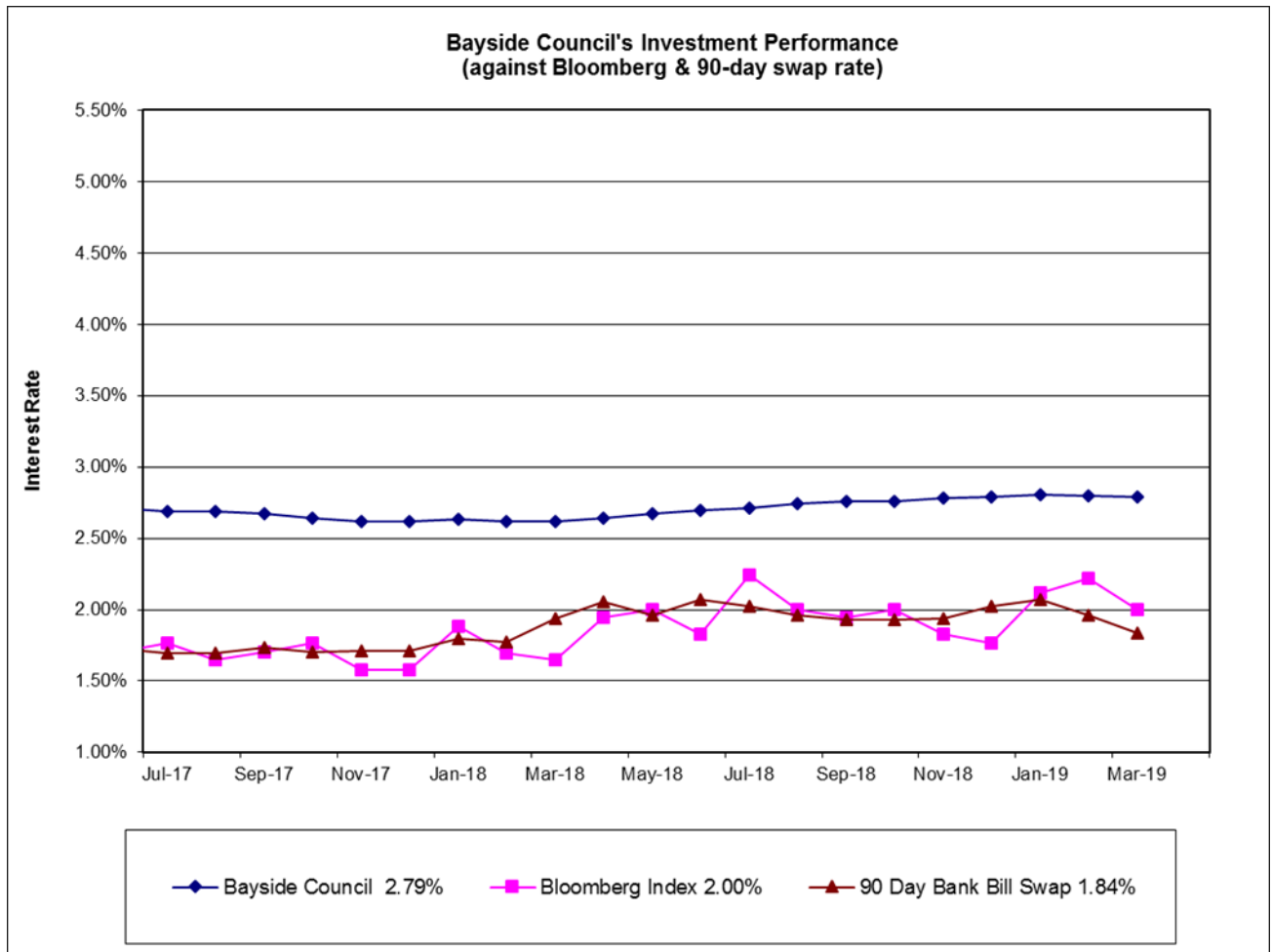
Officer Recommendation

That the Statutory Financial Report by the Responsible Accounting Officer be received and noted.

Background

The following table shows the performance of Council's investments since July 2017. The Bloomberg (former UBS) Index is used for comparison as this is a generally accepted industry benchmark used by Australian businesses. The 90-day Bank Bill Swap Rate is the worldwide rate that is reviewed by the financial markets every 90 days. This rate underpins the majority of investments which makes it a meaningful comparison for measuring investment performance.

For the current period, Council outperformed the market by 79 basis points. As demonstrated by the investment performance graph, investment returns are stable and consistently above the industry benchmark and 90-day Bank Bill Swap Rate.



Statement of Bank Balances

The table below shows details of movements in Council's cash at bank for March 2019.

STATEMENT OF BANK BALANCES AS AT 31 March 2019		
	GENERAL FUND	
Cash at Bank (Overdraft) as per Bank Statement as at: 28/02/2019		\$3,341,598
Add: Income from Operating Activities for the Period		
- Rates and other receipts*	\$4,875,991	
- Sundry Debtor Deposits	\$644,161	
- DA Fees, FCDs & Application & Construction Fees	\$349,621	
- Interest	\$838,282	
- Parking and Other Infringements	\$465,826	
- Rents, Leases, Booking Fees, Certificates & Licences	\$282,859	
- Sale of Assets	\$767,188	
- Long Service Levy	\$11,638	
- Grants	\$1,255,475	
- GST Rebate from ATO	\$1,407,879	
- Childcare Income	\$472,999	
- Pool, Golf, Mutch Park & Library Income	\$97,883	
- S.94 & Planning Contributions	\$454,718	
Total Income from Operating Activities for the Period	\$11,924,520	
Less: Expenses from Operating Activities for the Period		
Accounts Paid for Period (includes urgent cheques & refunds)	-\$10,525,864	
Direct Payroll	-\$4,459,836	
Presented Cheques	-\$176,214	
Miscellaneous Expenses	-\$360	
Bank Charges (including Agency Fees)	-\$26,047	
Total Expenses from Operating Activities for the Period	-\$15,188,321	
Total Net Movement from Operating Activities:		-\$3,263,801
Investment Activities for the Period		
- Investments redeemed	\$12,562,278	
- Transfer from Short-Term Money Market	\$27,150,000	
- Transfer to Short-Term Money Market	-\$19,370,000	
- New Investments	-\$20,000,000	
Net Investment Flows for the Period	\$342,278	
Funding Activities for the Period		
Loan Repayments	-\$105,837	
Net Funding Flows for the Period	-\$105,837	
Total Net Movement from Investment & Funding Activities:		\$236,441
Cash at Bank (Overdraft) as per Bank Statement as at: 31/03/2019		\$314,238
Limit of overdraft arranged at Bank for: Bayside West \$350,000 & Bayside East \$540,000		
* other receipts include Australia Post & Bank Tape		

Schedule of Investments

Bayside Council currently holds \$421.8m in investments and cash at call. In accordance with current accounting standards, investments are recorded at Fair Value (market value).

SCHEDULE OF INVESTMENTS HELD ON BEHALF OF BAYSIDE COUNCIL AS AT: 31/03/2019								
	Credit Rating	Purchase Price	Purchase Date	Maturity Date	Term Days	Prop %	Interest Rate	Market Value
Term Deposits								
Bank of Western Australia	A1	\$2,500,000	10/07/2018	11/04/2019	275	0.66%	2.80%	\$2,500,000
Bank of Western Australia	A1	\$1,300,000	17/07/2018	10/04/2019	267	0.35%	2.80%	\$1,300,000
Bank of Western Australia	A1	\$5,000,000	31/07/2018	02/05/2019	275	1.31%	2.80%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	09/08/2018	09/05/2019	273	1.31%	2.80%	\$5,000,000
Bank of Western Australia	A1	\$10,000,000	16/08/2018	16/05/2019	273	2.62%	2.80%	\$10,000,000
Bank of Western Australia	A1	\$5,000,000	24/08/2018	23/05/2019	272	1.31%	2.80%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	30/08/2018	30/05/2019	273	1.31%	2.75%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	05/09/2018	05/06/2019	273	1.31%	2.75%	\$5,000,000
Bank of Western Australia	A1	\$10,000,000	10/10/2018	10/07/2019	273	2.62%	2.70%	\$10,000,000
Bank of Western Australia	A1	\$5,000,000	14/11/2018	24/04/2019	161	1.31%	2.65%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	21/11/2018	13/06/2019	204	1.31%	2.65%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	20/03/2019	18/09/2019	182	1.31%	2.35%	\$5,000,000
Bank of Western Australia	A1	\$5,000,000	27/03/2019	25/09/2019	182	1.31%	2.35%	\$5,000,000
						<u>18.04%</u>		
Illawarra Mutual Building Society	A2	\$3,077,104	30/05/2018	30/05/2019	365	0.81%	2.75%	\$3,077,104
Illawarra Mutual Building Society	A2	\$2,659,570	5/06/2018	05/06/2019	365	0.70%	2.75%	\$2,659,570
Illawarra Mutual Building Society	A2	\$5,000,000	6/06/2018	06/06/2019	365	1.31%	2.75%	\$5,000,000
Illawarra Mutual Building Society	A2	\$1,500,000	16/07/2018	11/04/2019	269	0.39%	2.75%	\$1,500,000
Illawarra Mutual Building Society	A2	\$1,400,000	17/07/2018	11/04/2019	268	0.37%	2.75%	\$1,400,000
Illawarra Mutual Building Society	A2	\$5,000,000	30/08/2018	29/08/2019	364	1.31%	2.75%	\$5,000,000
Illawarra Mutual Building Society	A2	\$5,000,000	5/09/2018	03/04/2019	210	1.31%	2.70%	\$5,000,000
Illawarra Mutual Building Society	A2	\$5,000,000	28/02/2019	21/08/2019	174	1.31%	2.60%	\$5,000,000
						<u>7.51%</u>		
Newcastle Permanent Build Society	A2	\$6,000,000	31/01/2019	30/10/2019	272	1.57%	2.50%	\$6,000,000
						<u>1.57%</u>		
ME Bank	A2	\$1,000,000	08/05/2018	08/05/2019	365	0.27%	2.75%	\$1,000,000
ME Bank	A2	\$4,000,000	11/05/2018	10/05/2019	364	1.04%	2.75%	\$4,000,000
ME Bank	A2	\$2,000,000	22/05/2018	22/05/2019	365	0.52%	2.75%	\$2,000,000
ME Bank	A2	\$1,000,000	23/05/2018	22/05/2019	364	0.27%	2.75%	\$1,000,000
ME Bank	A2	\$1,000,000	12/07/2018	11/07/2019	364	0.27%	2.80%	\$1,000,000
ME Bank	A2	\$5,000,000	31/07/2018	01/08/2019	366	1.31%	2.80%	\$5,000,000
ME Bank	A2	\$5,000,000	06/12/2018	03/04/2019	118	1.31%	2.65%	\$5,000,000
ME Bank	A2	\$5,000,000	06/02/2019	07/08/2019	182	1.31%	2.70%	\$5,000,000
ME Bank	A2	\$5,000,000	06/02/2019	16/10/2019	252	1.31%	2.70%	\$5,000,000
ME Bank	A2	\$5,000,000	27/02/2019	27/11/2019	273	1.31%	2.65%	\$5,000,000
ME Bank	A2	\$5,000,000	15/03/2019	11/12/2019	271	1.31%	2.60%	\$5,000,000
						<u>10.23%</u>		
Westpac	AA-	\$3,000,000	01/05/2018	01/05/2019	365	0.79%	2.76%	\$3,000,000
Westpac	AA-	\$5,000,000	06/06/2018	06/06/2019	365	1.31%	2.76%	\$5,000,000
Westpac	AA-	\$3,000,000	08/06/2018	11/06/2019	368	0.79%	2.76%	\$3,000,000
Westpac	AA-	\$10,000,000	31/07/2018	31/07/2019	365	2.62%	2.76%	\$10,000,000
Westpac	AA-	\$3,000,000	01/08/2018	01/08/2019	365	0.79%	2.76%	\$3,000,000
Westpac	AA-	\$5,000,000	09/08/2018	09/08/2019	365	1.31%	2.79%	\$5,000,000
Westpac	AA-	\$5,000,000	30/08/2018	29/08/2019	364	1.31%	2.74%	\$5,000,000
Westpac	AA-	\$5,000,000	10/09/2018	11/09/2019	366	1.31%	2.68%	\$5,000,000
Westpac	AA-	\$5,000,000	09/11/2018	06/11/2019	362	1.31%	2.76%	\$5,000,000
Westpac	AA-	\$5,000,000	28/11/2018	28/11/2019	365	1.31%	2.73%	\$5,000,000
Westpac	AA-	\$5,000,000	03/12/2018	04/12/2019	366	1.31%	2.73%	\$5,000,000
Westpac	AA-	\$5,000,000	02/01/2019	08/01/2020	371	1.31%	2.70%	\$5,000,000
Westpac	AA-	\$5,000,000	11/02/2019	11/02/2020	365	1.31%	2.76%	\$5,000,000
Westpac	AA-	\$5,000,000	04/03/2019	04/03/2020	366	1.31%	2.65%	\$5,000,000
Westpac	AA-	\$10,000,000	07/03/2019	11/03/2020	370	2.62%	2.60%	\$10,000,000
Westpac	AA-	\$5,000,000	28/03/2019	25/03/2020	363	1.31%	2.60%	\$5,000,000
						<u>22.02%</u>		
AMP Bank	A1	\$3,000,000	12/06/2018	12/06/2019	365	0.79%	2.80%	\$3,000,000
AMP Bank	A1	\$5,000,000	21/02/2019	20/11/2019	272	1.31%	2.80%	\$5,000,000
						<u>2.10%</u>		

Schedule of Investments cont'd								
National Australia Bank	A1	\$1,000,000	14/06/2018	14/06/2019	365	0.27%	2.75%	\$1,000,000
National Australia Bank	A1	\$2,000,000	11/07/2018	11/07/2019	365	0.52%	2.75%	\$2,000,000
National Australia Bank	A1	\$5,000,000	04/09/2018	04/09/2019	365	1.31%	2.65%	\$5,000,000
National Australia Bank	A1	\$5,000,000	22/11/2018	24/04/2019	153	1.31%	2.65%	\$5,000,000
National Australia Bank	A1	\$6,000,000	28/11/2018	12/06/2019	196	1.57%	2.65%	\$6,000,000
National Australia Bank	A1	\$5,000,000	06/12/2018	19/06/2019	195	1.31%	2.68%	\$5,000,000
National Australia Bank	A1	\$5,000,000	09/01/2019	08/05/2019	119	1.31%	2.65%	\$5,000,000
National Australia Bank	A1	\$5,000,000	09/01/2019	09/10/2019	273	1.31%	2.67%	\$5,000,000
National Australia Bank	A1	\$5,000,000	16/01/2019	17/07/2019	182	1.31%	2.67%	\$5,000,000
National Australia Bank	A1	\$10,000,000	06/02/2019	06/11/2019	273	2.62%	2.67%	\$10,000,000
National Australia Bank	A1	\$5,000,000	19/03/2019	18/12/2019	274	1.31%	2.48%	\$5,000,000
NAB- Suncorp FRN	A+	\$2,000,000	12/04/2016	12/04/2021	1826	0.52%	3.44%	\$2,040,228
NAB- Bank of QLD FRN	BBB+	\$1,000,000	29/10/2015	29/04/2019	1278	0.27%	3.22%	\$1,006,030
						14.94%		
ING Direct	A	\$4,000,000	31/08/2017	04/09/2019	734	1.05%	2.75%	\$4,000,000
ING Direct	A	\$3,000,000	12/09/2017	12/09/2019	730	0.79%	2.75%	\$3,000,000
ING Direct	A	\$3,000,000	13/09/2017	18/09/2019	735	0.79%	2.75%	\$3,000,000
ING Direct	A	\$2,000,000	15/09/2017	25/09/2019	740	0.52%	2.75%	\$2,000,000
ING Direct	A	\$1,000,000	06/06/2018	06/12/2019	548	0.26%	2.80%	\$1,000,000
ING Direct	A	\$2,000,000	24/07/2018	04/09/2019	407	0.52%	2.53%	\$2,000,000
ING Direct	A	\$5,000,000	18/12/2018	24/06/2020	554	1.31%	2.70%	\$5,000,000
						5.24%		
Direct Investments (Floating Rate & Fixed Rate Term Deposits -TDs)								
CBA- AMP FRN	A	\$750,000	11/12/2015	11/06/2019	1278	0.20%	2.96%	\$752,160
CBA- Bank of QLD FRN	A-	\$2,000,000	26/02/2016	06/11/2019	1349	0.52%	3.09%	\$2,015,580
CBA- Bendigo & Adelaide FRN	A-	\$2,000,000	26/02/2016	18/08/2020	1635	0.52%	3.05%	\$2,018,980
CBA - Rabobank FRN	A+	\$2,000,000	04/03/2016	04/03/2021	1826	0.52%	3.38%	\$2,041,400
CBA- Westpac FRN	AA-	\$1,000,000	11/03/2016	10/05/2019	1155	0.27%	2.99%	\$1,005,040
CBA- Credit Union Australia FRN	BBB+	\$2,000,000	01/04/2016	01/04/2019	1095	0.52%	3.68%	\$1,999,660
CBA- Bank of QLD FRN	BBB+	\$1,000,000	18/05/2016	18/05/2021	1826	0.27%	3.43%	\$1,017,710
CBA- Greater Bank FRN	BBB-	\$3,000,000	07/06/2016	07/06/2019	1095	0.80%	3.46%	\$3,010,050
CBA FRN	AA-	\$2,000,000	12/07/2016	12/07/2021	1826	0.52%	3.27%	\$2,043,540
CBA- ME Bank FRN	BBB	\$3,000,000	09/08/2016	18/07/2019	1073	0.79%	3.51%	\$3,028,740
CBA- Bendigo & Adelaide FRN	A-	\$2,000,000	09/08/2016	19/09/2019	1136	0.52%	2.77%	\$2,005,760
CBA- Greater Bank FRN	BBB+	\$2,000,000	30/08/2016	30/08/2019	1095	0.52%	3.42%	\$2,009,430
CBA- Bendigo & Adelaide FRN	A-	\$2,000,000	21/11/2016	21/02/2020	1187	0.52%	3.01%	\$2,015,620
CBA FRN	AA-	\$3,000,000	17/01/2017	17/01/2022	1826	0.79%	3.17%	\$3,059,820
CBA- Greater Bank FRN	BBB-	\$4,000,000	24/02/2017	24/02/2020	1095	1.06%	3.34%	\$4,017,240
CBA- Rabobank FRN	A+	\$2,000,000	03/03/2017	03/03/2022	1826	0.52%	2.96%	\$2,028,720
CBA- Credit Union Australia FRN	BBB+	\$2,750,000	20/03/2017	20/03/2020	1096	0.72%	3.12%	\$2,765,593
CBA- Greater Bank FRN	BBB-	\$2,000,000	25/03/2017	29/05/2020	1161	0.52%	3.27%	\$2,007,290
CBA- ME Bank FRN	BBB+	\$3,000,000	06/04/2017	06/04/2020	1096	0.79%	3.31%	\$3,009,150
CBA- Greater Bank FRN	BBB-	\$1,000,000	04/08/2017	29/05/2020	1029	0.27%	3.27%	\$1,003,645
CBA- AMP FRN	A	\$2,000,000	06/10/2017	06/10/2020	1096	0.52%	2.81%	\$1,991,840
CBA - Heritage Bank FRN	BBB+	\$2,000,000	27/11/2017	04/05/2020	889	0.52%	3.34%	\$2,019,460
CBA - Newcastle Perm Build Soc FRN	BBB	\$2,000,000	29/11/2017	07/04/2020	860	0.52%	3.41%	\$2,008,660
ANZ - Heritage Bank FRN	BBB+	\$1,450,000	04/05/2017	04/05/2020	1096	0.39%	3.34%	\$1,464,301
Commonwealth Bank Fixed Rate TD	A1+	\$5,000,000	20/09/2018	17/04/2019	209	1.31%	2.58%	\$5,000,000
Bendigo Adelaide Bank Fixed Rate TD	A2	\$5,000,000	24/08/2018	23/05/2019	272	1.31%	2.68%	\$5,000,000
Bendigo Adelaide Bank Fixed Rate TD	A2	\$5,000,000	30/11/2018	28/08/2019	271	1.31%	2.70%	\$5,000,000
Bendigo Adelaide Bank Fixed Rate TD	A2	\$5,000,000	01/03/2019	04/09/2019	187	1.31%	2.60%	\$5,000,000
						18.35%		
FTD= Floating Rate Deposit								
FRN= Floating Rate Note								
Unlisted Community Bank Shares								
NRMA/IAG Shares	Unrated	\$7,552				0.01%		
Bendigo Bank	A2	\$5,000				0.00%		
Total Investments		\$381,399,225				100.00%		
Operating Accounts		\$314,238						
Cash Deposit Accounts		\$29,601,459						
AMP 31 Day Notice Account		\$10,570,835						
Total Investments and Cash		\$421,885,757						
Investment and Cash Flows for Bayside Council:								
	Feb-19	Mar-19	Total Net Movement					
Total Investments	\$373,961,504	\$381,399,225	\$7,437,722					
Operating Accounts	\$3,341,598	\$314,238	-\$3,027,361					
Cash/Short Term Money Market	\$37,375,012	\$29,601,459	-\$7,773,553					
AMP 31 Day Notice Account	\$10,552,217	\$10,570,835	\$18,618					
TOTAL Investments and Cash:	\$425,230,331	\$421,885,757	-\$3,344,574					
NOTE: In accordance with current accounting standards Council is required to obtain market values on its investments and hence the inclusion in the above table. It is important to note that Council does not hold any CDOs which have adversely affected many councils in NSW.								
I hereby certify in accordance with Clause 212 of the Local Government (General) Regulation 2005 that the above investments have been made in accordance with Section 625 of the Local Government Act 1993, and Council's investment policies.								
MATTHEW WALKER								
RESPONSIBLE ACCOUNTING OFFICER								

Investment Translation

The following investment information is provided as translation of what the types of investments are:

- * A Term Deposit is a short term deposit held at a financial institution for a fixed term and attracts interest at the prevailing market rate.
- * A Bank Bill is a short term investment issued by a bank representing its promise to pay a specific sum to the bearer on settlement. The amount payable to Council at maturity is the face value which represents the purchase price and interest earned.
- * A Floating Rate Note is a longer term investment issued by a financial institution with a variable interest rate. The adjustments to the interest rate are usually made every three months are tied to a certain money-market index such as the Bank Bill Swap Rate (BBSW).
- * A CDO (Collateralised Debt Obligation) is an investment backed by a diversified pool of one or more classes of debt. These investments are for longer terms and offer a higher rate of interest. Council does not invest in CDOs.
- * A Capital Guaranteed Note is a longer term investment issued by a financial institution with a fixed coupon that is paid contingent on the performance of the underlying investments, being equities, property bonds etc. In addition, this form of investment also can attract capital growth. The issuer of the note has provided a guarantee that the capital is guaranteed at maturity.
- * A Floating Term Deposit and Variable Rate Deposits are exactly the same as term deposits except they automatically roll over (reinvest) at the end of the 90-day period for up to 2 years.
- * Money Market Call Account refers to funds held at a financial institution and can be recalled by Council either same day or overnight.
- * Unlisted Community Bank Shares refer to bank shares not listed on the Australian Stock Exchange. The local community owns and operates the Bendigo Bank branch which assists the bank in providing banking infrastructure and community support.

Credit Ratings

- * AAA - Extremely strong capacity to meet financial commitments (highest rating).
- * AA - Very strong capacity to meet financial commitments.
- * A - Strong capacity to meet financial commitments, but somewhat more susceptible to adverse economic conditions and changes in circumstances.
- * BBB - Adequate capacity to meet financial commitments with adverse economic conditions or changing circumstances more likely to lead to a weakened capacity of the obligor to meet its financial commitments.
- * BB - Less vulnerable in the near term, but faces uncertainties and exposures to adverse business, financial and economic conditions.
- * B - More vulnerable to non-payment than obligations rated 'BB', but the obligor has the capacity to meet its financial commitment on the obligation.
- * CCC - Currently vulnerable, dependent upon favourable business, financial and economic conditions to meet its financial commitments.
- * CC - Currently highly vulnerable.
- * C - Highly likely to default.

Financial Implications

- | | |
|--------------------------------------|-------------------------------------|
| Not applicable | <input checked="" type="checkbox"/> |
| Included in existing approved budget | <input type="checkbox"/> |
| Additional funds required | <input type="checkbox"/> |
-

Community Engagement

Not required.

Attachments

Nil

Council Meeting

8/05/2019

Item No	8.8
Subject	Code of Conduct
Report by	Michael Mamo, Director City Performance
File	F11/498

Summary

A new Model Code of Conduct and associated Procedures have been prescribed. Council has reviewed the Model Code and is proposing changes to the Social Media and Gifts/Benefits elements of the Model Code.

Officer Recommendation

- 1 That Council endorses the attached draft Code of Conduct, based on the Model Code of Conduct, along with additional provisions regarding personal benefit and social media.
 - 2 That Council endorses the attached model Code of Conduct Procedures as Bayside's, without amendment.
-

Background

The 2018 Model Code of Conduct for Local Councils in NSW and the associated Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW were prescribed on 14 December 2018. Councillors were provided with an update and summary of changes to the new Model Code of Conduct at the General Manager Briefing Session of 8 October 2018.

Adoption Obligatory

Councils must adopt the new Model Code of Conduct and Procedures within 6 months of prescription, which is between 14 December 2018 and 14 June 2019. Council's existing adopted Codes of Conduct and Procedures remain in force until Council adopts a new Code and Procedures, based on the Model Code of Conduct and Procedures prescribed under the Regulation.

The 2018 Model Code of Conduct and Procedures only apply from 14 June 2019 or the date they are adopted by each council, whichever is first. They are not retrospective. For any allegations that relate to behaviour or conduct that occurred prior to the new Code and Procedures being adopted by a council, the previous versions of the Code and Procedures apply.

Councils may include supplementary provisions in their adopted Codes of Conduct and may also impose more onerous requirements than those prescribed under the Model Code of

Conduct. However, councils must not dilute the standards prescribed in the Model Code of Conduct.

New Requirements

The new Model Code of Conduct applies to more than 45,000 staff and nearly 1,300 councillors at 128 councils across NSW.

Key changes in the Model Code compared to the previous one include:

- Incorporation of the pecuniary interest provisions previously contained in the *Local Government Act 1993* and Regulation.
- New standards relating to discrimination and harassment, bullying, work health and safety, behaviour at meetings, access to information and maintenance of council records.
- New rules governing the acceptance of gifts including mandatory reporting.
- A new ongoing disclosure requirement for councillors and designated persons requiring disclosure of new interests in returns of interests within three months of becoming aware of them.
- The requirement of councillors to disclose in their returns of interests whether they are a property developer or a close associate of a property developer.

The attached Circular 18-44, issued by the Office of Local Government contains further important information.

Bayside's Approach

For Bayside Council, it is proposed to adopt the Model Code and strengthen two requirements consistent with Bayside's current approach:

- The non-acceptance of gifts and benefits, as has been included in previous Bayside's Codes of Conduct.
- Social media provisions, which were in the draft model Code, and are recommended to be included in Bayside's Code.

Code of Conduct Procedures

The accompanying revised *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW August 2018* have also been issued by the Office of Local Government. It is proposed that Council adopts the model Procedures as is without any additional provisions. The attached model Procedures have been re-badged as Bayside's.

It is noted that Bayside adopted the SSROC panel of conduct reviewers in 2017. The panel was established for 4 years.

Training

Discussions are underway with Council's Learning & Development team in order to formulate appropriate refresher training for the new Code to the organisation.

Financial Implications

Not applicable	<input checked="" type="checkbox"/>
Included in existing approved budget	<input type="checkbox"/>
Additional funds required	<input type="checkbox"/>

Community Engagement

Not Applicable.

Attachments

- 1 Circular 18-44 [↓](#)
- 2 Code of Conduct - draft 10 April 2019 [↓](#)
- 3 Code of Conduct Procedures - draft 18 April 2019 [↓](#)



Office of
Local Government

Circular to Councils

Circular Details	Circular No 18-44 / 18 December 2018 / A621282
Previous Circular	18-24 <i>Status of the new Model Code of Conduct for Local Councils in NSW and Procedures</i>
Who should read this	Mayors / Councillors / General Managers / Joint Organisation Executive Officers / Complaints Coordinators / Conduct Reviewers
Contact	Council Governance Team – (02) 4428 4100 / olg@olg.nsw.gov.au
Action required	Council to Implement

Commencement of the new Model Code of Conduct for Local Councils in NSW and Procedures

What's new or changing

- The new 2018 *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct) and *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW* (Procedures) have now been prescribed under the *Local Government (General) Regulation 2005*. The new prescribed Model Code of Conduct and Procedures are available on OLG's website.
- Provisions governing the use of social media (clause 8.21) in the previously released version of the Model Code of Conduct issued on 5 September 2018 have been removed. However, it remains open to councils to adopt this provision as a supplementary provision of their code of conduct, should they choose to do so.

What this will mean for your council

- Councils have six months from the date of prescription, (**14 December 2018 – 14 June 2019**) to adopt a code of conduct and procedures based on the prescribed Model Code of Conduct and Procedures. The transitional arrangements for the new Model Code of Conduct and Procedures are set out below.
- Councils' complaints coordinators should bring this circular and the attached FAQ to the attention of their council's conduct reviewers. Complaints coordinators should also inform conduct reviewers when the council has adopted a new code of conduct and procedures and provide copies.
- Councils should review their existing panels of conduct reviewers and determine to appoint a new panel using the expression of interest process prescribed under the Procedures if they have not done so in the past four years. Councils may appoint shared panels with other councils including through a joint organisation or another regional body associated with the councils.

Key points

- Councils' existing adopted codes of conduct and procedures will remain in force until such time as councils adopt a new code of conduct and procedures

based on the Model Code of Conduct and Procedures prescribed under the Regulation.

- If a council fails to adopt a new code of conduct and procedures based on the new Model Code of Conduct and Procedures within six months of their prescription, the provisions of the new Model Code of Conduct and Procedures will automatically override any provisions of a council's adopted code of conduct and procedures that are inconsistent with those contained in the Model Code of Conduct and Procedures through the operation of sections 440(4) and 440AA(4) of the *Local Government Act 1993* (unless the inconsistent provisions of a council's adopted code of conduct are more onerous than those contained in the Model Code of Conduct).
- In adopting a new code of conduct and procedures, councils may include provisions that are supplementary to those contained in the Model Code of Conduct and Procedures. Councils may also impose more onerous requirements under their adopted codes of conduct than those prescribed under the Model Code of Conduct. However, councils must not dilute the standards prescribed under the Model Code of Conduct in their adopted codes of conduct.
- Some councils indicated in their feedback on the consultation draft of the Model Code of Conduct a preference for adopting separate codes of conduct for councillors, staff and delegates and committee members instead of a single code of conduct that applies to all council officials. To assist councils to do this, OLG has prepared bespoke versions of the Model Code of Conduct for councillors, staff and delegates and committee members for adoption, instead of a single code of conduct, should councils wish to do so.
- Code of conduct complaints must be assessed against the standards prescribed under the version of the council's code of conduct that was in force at the time the conduct the subject of the complaint is alleged to have occurred.
- Code of conduct complaints must be dealt with in accordance with the version of the council's procedures that were in force at the time the complaint was made.

Where to go for further information

- Further information is provided in the FAQ attached to this circular.
- The new Model Code of Conduct and Procedures and other associated documents are available on OLG's website at www.olg.nsw.gov.au.
- OLG will be providing further guidance and assistance to councils to support implementation of the new Model Code of Conduct and Procedures during the six month transitional timeframe.
- For more information, contact the Council Governance Team by telephone on 02 4428 4100 or by email at olg@olg.nsw.gov.au.



Tim Hurst
Chief Executive

Office of Local Government
5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541
T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209
E olg@olg.nsw.gov.au W www.olg.nsw.gov.au ABN 44 913 630 046

FREQUENTLY ASKED QUESTIONS

What is the purpose of the Model Code of Conduct?

The *Model Code of Conduct for Local Councils in NSW* prescribes the minimum ethical and behavioural standards all council officials in NSW are required to comply with. In doing so it seeks to:

- prescribe uniform minimum ethical and behavioural standards for all councils in NSW
- provide clear guidance to council officials on the minimum ethical and behavioural standards expected of them as council officials
- provide clear guidance to local communities on the minimum ethical and behavioural standards they can expect of the council officials who serve them
- promote transparency and accountability
- promote community confidence in the integrity of the decisions councils make and the functions they exercise on behalf of their local communities, and
- promote community confidence in the institution of local government.

How is the Model Code of Conduct prescribed?

The Model Code of Conduct is prescribed under section 440 of the *Local Government Act 1993* (LGA) and the *Local Government (General) Regulation 2005* (the Regulation).

Under section 440 of the LGA, each council is required to adopt a code of conduct based on the Model Code of Conduct prescribed under the Regulation. Councils may enhance or strengthen the standards prescribed under the Model Code of Conduct in their adopted codes of conduct to make them more onerous. Councils may also supplement the provisions contained in the Model Code of Conduct with additional provisions in their adopted codes of conduct.

However, councils cannot dilute or weaken the standards prescribed in the Model Code of Conduct in their adopted codes of conduct. Provisions contained in a council's adopted code of conduct that are less onerous than those prescribed under the Model Code of Conduct will be invalid and the equivalent provisions of the Model Code of Conduct will override them through the operation of section 440 of the LGA.

How are the Procedures prescribed?

The *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW* are prescribed under section 440AA of the LGA and the Regulation. Under section 440AA, each council is required to adopt procedures for the administration of their adopted code of conduct based on the Model Procedures prescribed under the LGA and Regulation. Councils' adopted procedures may contain provisions that supplement the Model Procedures, but a council's adopted procedure has no effect to the extent that it is inconsistent with the Model Procedures prescribed under the Regulation.

Are joint organisations and county councils required to adopt the Model Code of Conduct and Procedures?

Yes.

Who does the Model Code of Conduct apply to?

Section 440 of the LGA specifies the classes of council officials that a Model Code of Conduct prescribed under the Regulation may apply to. Under section 440, a Model Code of Conduct may be prescribed that applies to councillors, members of staff of councils and delegates of councils. For this reason, the Model Code of Conduct prescribed under the Regulation only applies to councillors, council staff and delegates of councils (including members of committees that are delegates of councils). These are all defined as “council officials” for the purposes of the Model Code of Conduct and the Procedures.

Section 440 also allows regulations to be made to apply the provisions of the Model Code of Conduct relating to the disclosure of pecuniary interests to members of a committee of a council (including the Audit, Risk and Improvement Committee) and advisers to councils. A regulation has been made to give effect to this and the new Model Code of Conduct contains provisions prescribing the obligations of committee members and advisers to councils in relation to the disclosure of pecuniary interests.

What is the regulatory scope of the Model Code of Conduct?

The Model Code of Conduct applies to any conduct by a “council official” that is connected with their role as a council official or the exercise of their functions as a council official.

It is the personal responsibility of all council officials to ensure that their conduct complies with the ethical and behavioural standards prescribed under the Model Code of Conduct. This applies to both the exercise by council officials of their functions as a council official and any conduct (including in a private capacity) that is connected with their role as a council official.

Can councils adopt separate codes of conduct for councillors, staff and delegates and committee members?

Yes. Some councils indicated in their feedback on the consultation draft of the Model Code of Conduct, a preference for adopting separate codes of conduct for councillors, staff and delegates and committee members instead of a single code of conduct applying to all council officials.

There is nothing to prevent councils from doing so, provided that the adopted codes of conduct, taken together as a package, reflect all the provisions contained in the prescribed Model Code of Conduct and are consistent with it. To assist councils to do this, OLG has prepared bespoke versions of the Model Code of Conduct for councillors, staff and delegates and committee members for adoption instead of a single code of conduct for councils wishing to do this.

Can a council extend the application of its adopted code of conduct to persons other than councillors, council staff and delegates of council?

Yes. There is nothing under the LGA to prevent a council, when adopting a code of conduct based on the Model Code of Conduct, to extend its application to persons other than councillors, council staff and delegates of council.

In adopting a code of conduct based on the Model Code of Conduct, councils may amend the provisions of the Model Code of Conduct and the associated Procedures to extend their application to contractors, community members of wholly advisory committees and/or volunteers. In doing so, to be effective, councils will also need to

make it a condition of a contractor's engagement or volunteer's or advisory committee member's appointment that they comply with the council's adopted code of conduct.

How many iterations of the Model Code of Conduct and Procedures have there been?

The Model Code of Conduct has been reviewed every four years to address new and emerging issues and to reflect shifting community standards and expectations. The 2018 version of the Model Code of Conduct is the fourth iteration. The first iteration of the Model Code of Conduct was prescribed in January 2005 in support of amendments to the LGA that required the adoption of a code of conduct based on a prescribed Model Code of Conduct. Before this, councils were free to adopt their own codes of conduct with the result that ethical standards varied from council to council.

The 2018 version of the Procedures is the second iteration. The first iteration of the Procedures was prescribed in March 2013 in support of amendments to the LGA that required the adoption of procedures for the administration of council's adopted codes of conduct based on a prescribed Model Procedure.

Why was the new Model Code of Conduct developed?

The new 2018 version of the Model Code of Conduct gives effect to a key reform made by amendments passed by the NSW Parliament to consolidate the prescription of all ethical standards for local government into a single statutory instrument. Previously, ethical standards were prescribed from three sources, the pecuniary interest provisions of the LGA and the Regulation and the Model Code of Conduct.

Consolidating all ethical standards into a single instrument will:

- result in a better understanding of, and compliance, with ethical standards - council officials will no longer need to be familiar with their obligations prescribed from three separate statutory sources, the LGA, the Regulation and the Model Code of Conduct
- allow pecuniary interest breaches by councillors to be treated as "misconduct", meaning that minor breaches can be dealt with by the Chief Executive of OLG as an alternative to referral to the NSW Civil and Administrative Tribunal (NCAT) and suspensions for pecuniary interest breaches will be counted towards disqualification for the purposes of the "three strikes" automatic disqualification
- allow greater flexibility and efficiency in updating the standards to address emerging issues – amendments will now be able to be made by way of a Regulation amendment.

How were the new Model Code of Conduct and Procedures developed?

Moving the pecuniary interest provisions to the Model Code of Conduct necessitated a rewrite of the Model Code of Conduct. As part of this process, it was decided to also undertake a comprehensive review of the existing provisions of the Model Code of Conduct (as part of the regular four-year review cycle) and the Procedures.

In undertaking the review, OLG consulted extensively with councils and other stakeholders. In developing the new Model Code of Conduct and Procedures, there have been two rounds of public consultation:

- in late 2016, submissions were invited suggesting changes and improvements to the existing Model Code of Conduct and Procedures

- based on the feedback received from the first round of consultation, consultation drafts of the proposed new Model Code of Conduct and Procedures were developed and issued for comment.

The final versions of the 2018 Model Code of Conduct and Procedures have been informed by the comment received in response to the consultation drafts.

What changes have been made in the 2018 version of the Model Code of Conduct?

The most obvious change is that the pecuniary interest provisions previously contained in the LGA and Regulation have now been included in the Model Code of Conduct.

One of the recurrent themes of the feedback received in the first round of consultation on the new Model Code of Conduct was that the “principles-based” approach to prescribing ethical and behavioural standards in the previous version of the Model Code of Conduct resulted in some of the prescribed standards being too vague, meaning that the ethical and behavioural standards expected of council officials were unclear and that almost anything could potentially constitute a breach of a council’s code of conduct. In response to this, the Model Code of Conduct has been substantially redrafted to be more prescriptive and to more clearly identify the behaviours that it seeks to deter.

Other key changes include:

- new standards relating to discrimination and harassment, bullying, work health and safety, behaviour at meetings, access to information and maintenance of council records
- new rules governing the acceptance of gifts including mandatory reporting
- a new ongoing disclosure requirement for councillors and designated persons requiring disclosure of new interests in returns of interests within three months of becoming aware of them
- councillors will be required to disclose in their returns of interests whether they are a property developer or a close associate of a property developer.

What changes have been made to the previously approved version of the Model Code of Conduct posted on OLG’s website on 5 September 2018?

Provisions governing the use of social media (clause 8.21) in the previously released version of the Model Code issued on 5 September 2018 have been removed. However, it remains open to councils to adopt this provision as a supplementary provision of their code of conduct, should they choose to do so. Should councils require further assistance in relation to this, they may contact OLG’s Council Governance Team.

What changes have been made in the 2018 version of the Procedures?

In response to feedback, changes have been made to the Procedures to address the following issues:

- the role of the general manager in the receipt and initial management of code of conduct complaints about councillors
- the ability of complainants, who are unhappy with decisions of the council, to misuse councils’ codes of conduct by repackaging routine complaints as “code of conduct complaints”

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- the lack of recourse against members of the public who inappropriately disclose information about complaints they have made under a council's code of conduct.

These changes are outlined below:

How can councils outsource and centralise the management of complaints about councillors through regional arrangements under the new Procedures?

The new Procedures have sought to address concerns about the role of the general manager in the receipt and initial management of code of conduct complaints about councillors by giving general managers (and mayors in the case of complaints about the general manager) the flexibility to delegate their functions under the Procedures to another member of staff or a person external to the council.

The new Procedures have also been designed to allow councils to centralise the management of code of conduct complaints through a joint organisation, a regional organisation of councils or another shared arrangement should they choose to do so. This could be done, for example, through the establishment of a broader internal ombudsman function in a joint organisation or regional organisation of councils or through another shared arrangement to service member councils.

In particular:

- councils are able to establish and maintain regional panels of conduct reviewers through a joint or regional organisation of councils or another shared arrangement
- a staff member of a joint or regional organisation of councils or another member council can (in consultation with and through the executive officer of the joint organisation or general manager of the employer council) be appointed by general managers of member councils as the complaints coordinator for all member councils
- general managers and mayors of member councils can (in consultation with and through the executive officer of the joint organisation or general manager of the employer council) delegate their complaints management functions under the Procedures to a joint organisation or regional organisation of councils or to a staff member of another member council
- councils' internal ombudsman may, with the approval of OLG, be appointed to a panel of conduct reviewers allowing them to exercise the functions of a conduct reviewer, subject to their being able to meet the qualification criteria for conduct reviewers and being able to demonstrate to OLG's satisfaction a requisite degree of independence from member councils.

This offers a number potential benefits:

- centralisation of these functions through a joint organisation, a regional organisation of councils or another shared arrangement has the potential to deliver efficiencies and economies of scale and allows the development of a body of expertise within the region in the management of code of conduct complaints
- it allows general managers and mayors to divest themselves of the sometimes onerous responsibilities associated with code of conduct complaints management, allowing them to focus on their core responsibilities
- it allows all code of conduct complaints about mayors, councillors and general managers to be managed independently of the councils they relate to.

How do the new Procedures address misuse of councils' codes of conduct?

The purpose of a council's code of conduct is to prescribe the ethical and behavioural standards council officials are expected to comply with. The purpose of the Procedures is to support the enforcement of those standards. Consistent with this, councils' codes of conduct should not be used to deal with routine complaints.

The definition of a "code of conduct complaint" under the new Procedures has been tightened up to address the potential for misuse of councils' codes of conduct to re-litigate council decisions a person may disagree with or to re-prosecute complaints that have previously been addressed under councils' routine complaints management processes.

To be a code of conduct complaint, a complaint must show or tend to show conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct. Complaints that do not meet this definition of a "code of conduct complaint" must not be dealt with under the Procedures and are to be dealt with under councils' routine complaints management processes.

The new Procedures make it clear that the following are not code of conduct complaints:

- complaints about the standard or level of service provided by a council or a council official
- complaints that relate solely to the merits of a decision made by a council or a council official or the exercise of a discretion by a council or a council official
- complaints about the policies or procedures of a council
- complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council's code of conduct.

What recourse do the new Procedures provide against persons who inappropriately disclose information about code of complaints they have made?

Allegations of breaches of a council's code of conduct must not be made publicly and information about code of conduct complaints and the consideration of code of conduct complaints is not to be publicly disclosed. This is to ensure the allegations are dealt with appropriately and fairly in accordance with the prescribed Procedures for the management of code of conduct complaints.

While council officials disclosing this information may face disciplinary action, under the previous Procedures there was no recourse against members of the public who did so. Under the new Procedures, where members of the public publicly disclose information about a code of conduct complaint they have made, general managers can determine, with OLG's consent, that the complainant is to receive no further information about their complaint and any future code of conduct complaints they make (subject to the requirements of the *Government Information (Public Access) Act 2009*).

When must councils adopt a new code of conduct and procedures based on the new prescribed Model Code of Conduct and Procedures?

Councils have six months from the date of prescription, (**14 December 2018 – 14 June 2019**) to adopt a code of conduct and procedures based on the prescribed Model Code of Conduct and Procedures.

What are the transitional arrangements for the new Model Code of Conduct and Procedures?

The following transitional arrangements apply to the new Model Code of Conduct and Procedures:

- Councils' existing adopted codes of conduct and procedures will remain in force until such time as councils adopt a new code of conduct and procedures based on the Model Code of Conduct and Procedures prescribed under the Regulation.
- If a council fails to adopt a new code of conduct and procedures based on the new Model Code of Conduct and Procedures within six months of their prescription, the provisions of the new Model Code of Conduct and Procedures will automatically override any provisions of a council's adopted code of conduct and procedures that are inconsistent with those contained in the Model Code of Conduct and Procedures through the operation of sections 440(4) and 440AA(4) of the LGA (unless the inconsistent provisions of a council's adopted code of conduct are more onerous than those contained in the Model Code of Conduct).
- In adopting a new code of conduct and procedures, councils may include provisions that are supplementary to those contained in the Model Code of Conduct and Procedures. Councils may also impose more onerous requirements under their adopted codes of conduct than those prescribed under the Model Code of Conduct. However, councils must not dilute the standards prescribed under the Model Code of Conduct in their adopted codes of conduct.
- Code of conduct complaints must be assessed against the standards prescribed under the version of the council's code of conduct that was in force at the time the conduct the subject of the complaint is alleged to have occurred.
- Code of conduct complaints must be dealt with in accordance with the version of the council's procedures that was in force at the time the complaint was made.

Where can I get Word© versions of the new Model Code of Conduct and Procedures?

If you require a Word© version of the new Model Code of Conduct or Procedures, please contact OLG's Council Governance Team.



Draft Code of Conduct

Draft 10 April 2019



© Bayside Council

Code of Conduct

File: F11/498 Document: 16/110628[v3]

Policy Register: F16/951 Policy No.: PP16/2

Class of document: Council Policy

Enquiries: Manager Governance & Risk



Telephone Interpreter Services - 131 450 Τηλεφωνικές Υπηρεσίες Διαμεγέλιων بخدمة الترجمة الهاتفية 電話傳譯服務處 Служба за преведување по телефон

Code of Conduct ~~The Model Code of Conduct for Local Councils in NSW~~

2

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1 Introduction

Background

~~Bayside Council's Code of Conduct is based on the~~ 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 based on the Model Code 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 organisations ~~s~~ 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'.~~

Code of Conduct ~~The Model Code of Conduct for Local Councils in NSW~~

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

Code of Conduct ~~The Model Code of Conduct for Local Councils in NSW~~

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2 Definitions

In this code the following terms have the following meanings:

LGA

The Local Government Act 1993

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

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

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

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

Conduct

Includes acts and omissions

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 *Environmental Planning and Assessment Act 1979*

General Manager

Includes the executive officer of a joint organisation

Joint organisation

A joint organisation established under section 400O of the LGA

Local Planning Panel

A local planning panel constituted under the *Environmental Planning and Assessment Act 1979*

Mayor

Includes the chairperson of a county council or a joint organisation

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 Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation

The Regulation

The Local Government (General) Regulation 2005

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

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 sex, pregnancy, breastfeeding, race, age, marital or domestic status, homosexuality, disability, transgender status, infectious disease, carer's responsibilities 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
 - 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* (WH&S Act). You must comply with your duties under the WH&S 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 WH&S 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 WH&S 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.
- 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.

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
 - b the interest of your spouse or de facto partner, your relative, or your partner or employer
 - 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
 - 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
 - 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
 - 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.

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).
- 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
 - 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.

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.

- 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.

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
 - 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.

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.

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.

6 Personal benefit

Refer also to Council's *Gifts & Benefits Policy*

- 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 a political donation for the purposes of the *Electoral Funding Act 2018*
 - b 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
 - c attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
 - d free or subsidised meals, beverages or refreshments of token value 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 [Council's principle regarding gifts and benefit is that 'A Thank you is Enough'.](#)

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 except in special circumstances as~~

defined in Council's Gifts & Benefits Policy. Such special circumstances include: situations that relate to protocol, cultural aspects, sister-city relationships, international delegations and the like; hospitality associated with events and functions hosted by community based (not-for-profit) organisations, attendance at which is consistent with the council official's role – in particular the statutory role of a councillor; insignificant gifts / benefits associated with hospitality, promotional materials and other situations described in this policy.

- 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 or nominee 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 Manager Governance & Risk, who will determine its fate, unless the nature of the gift or benefit makes this impractical.

Gifts and benefits of token value

- 6.8 The above 'no-gift' requirement extends to token gifts such as 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 \$50. 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 \$50
 - b gifts of alcohol that do not exceed a value of \$50
 - c ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
 - d prizes or awards that do not exceed \$50 in value.

Gifts and benefits of more than token value

- 6.9 Substantial Gifts or benefits ~~that exceed \$50 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 never be accepted. Apart from the above-mentioned situations, there are no special circumstances in which a substantial gift can be accepted.~~

- 6.10 ~~Substantial~~ 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 \$50~~, 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 ~~Deleted~~ 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 \$50 in value.
- 6.12 ~~Deleted~~ 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.

7 Relationships between Council officials

Refer also to Council's *Council Officials Relationships & Access Policy*

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
- 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 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.

8 Access to information and Council resources

Refer also to Council's:

- Council Officials Relationships & Access Policy
- Electronic Communications Policy
- Access to Information Policy

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.

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.
- 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:
- the representation of members with respect to disciplinary matters
 - the representation of employees with respect to grievances and disputes
 - 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:
- for the purpose of assisting your election campaign or the election campaign of others, or
 - 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 post or share comments, photos, videos, electronic recordings or other information that:
- is offensive, humiliating, threatening, or intimidating to other Council officials or those that deal with the Council
 - contains content about the Council that is misleading or deceptive
 - divulges confidential Council information

- [breaches the privacy of other Council officials or those that deal with Council](#)
- [contains allegations of suspected breaches of this code or information about the consideration of a matter under the Procedures, or](#)
- [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

[8.208.22](#) You must comply with the requirements of the *State Records Act 1998* and the council's records management policy.

[8.218.23](#) 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.

[8.228.24](#) 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.

[8.238.25](#) 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

[8.248.26](#) 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.

[8.258.27](#) 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.

[8.268.28](#) 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.

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.
- 9.9 Where you are a councillor or the general manager, you must comply with any council resolution requiring you to take action as a result of a breach of this code.

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

- 9.10 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.
- 9.11 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 9.12 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.
- 9.13 You must not disclose information about a complaint you have made alleging a breach of this code or a matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- 9.14 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

- 9.15 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.
- 9.16 Complaints alleging a breach of this Part by other council officials are to be managed by the general manager in accordance with the Procedures.

10 Document control

Review

Council must, within 12 months after each ordinary election, review the code and make such adjustments as it considers appropriate and as are consistent with the LGA and Regulation.

The General Manager may approve minor editorial amendments that do not change the policy substance.

Related documents

- Local Government Act 1993
- Local Government (General) Regulation 2005
- The Model Code of Conduct for Local Councils in NSW
- Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW
- Council's Code of Conduct Procedures
- Council's Conflict of Interest Policy (for staff)
- Council's Gifts & Benefits Policy
- Council's Council Officials Relationship & Access Policy
- Council's Electronic Communications Policy
- Council's Access to Information Policy

Version history

Version	Release Date	Author	Reason for Change
1.0	14/09/2016	Bruce Cooke	New document
2.0	18/07/2018	Coordinator Governance	Review of document
3.0	TBA	Coordinator Governance	New Model Code

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

- 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:
 - 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.

Sources of income

- 26 A person making a return under clause 4.21 of this code must disclose:
- a 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
 - b 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:
- a in relation to income from an occupation of the person:
 - i. a description of the occupation, and
 - ii. 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
 - iii. if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
 - b in relation to income from a trust, the name and address of the settlor and the trustee, or
 - c 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:
- a on the return date, and
 - b 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:

- a 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.

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

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	Nature of interest (if any)	Description of position (if any)	Description of principal objects (if any) of

return date/at any time since 30 June	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.

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 ¹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) ² <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>	
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>	

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.

[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]



Draft Code of Conduct Procedures

Draft 18 April 2019



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Code of Conduct Procedures

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Telephone Interpreter Services - 131 450 Τηλεφωνικός Υπηρεσιός Διαμεγνέων بخدمة الترجمة الهاتفية 電話傳譯服務處 Служба за преведување по телефон

Code of Conduct Procedures

2

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1 Introduction

Background

These procedures ("the Model Code Procedures") are prescribed for the administration of the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct").

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

The Model Code Procedures are made under section 440AA of the LGA and the Regulation. Section 440AA of the LGA requires every council (including county councils) and joint organisation to adopt procedures for the administration of their code of conduct that incorporate the provisions of the Model Code Procedures.

In adopting procedures for the administration of their adopted codes of conduct, councils and joint organisations may supplement the Model Code Procedures. However, provisions that are not consistent with those prescribed under the Model Code Procedures will have no effect.

Note: References in these procedures to councils are also to be taken as references to county councils and joint organisations.

Note: In adopting the Model Code Procedures, joint organisations should adapt them 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 Procedures, county councils should adapt them to substitute the term "chairperson" for "mayor" and "member" for "councillor".

Note: Parts 6, 7, 8 and 11 of these procedures apply only to the management of code of conduct complaints about councillors (including the mayor) or the general manager.

2 Definitions

In these procedures the following terms have the following meanings:

LGA

The *Local Government Act 1993*

Administrator

An administrator of a council appointed under the LGA other than an administrator appointed under section 66

Code of Conduct

A code of conduct adopted under section 440 of the LGA

Code of Conduct Complaint

A complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures

Complainant

A person who makes a code of conduct complaint

Complainant Councillor

A councillor who makes a code of conduct complaint

Complaints Coordinator

A person appointed by the general manager under these procedures as a complaints coordinator

Conduct Reviewer

A person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager

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

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

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

Council Official

Any councillor, member of staff of council, administrator, council committee member, delegate of council and, for the purposes of clause 4.16 of the Model Code of Conduct, council adviser

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

External Agency

a state government agency such as, but not limited to, the Office, the ICAC, the NSW Ombudsman or the police

General Manager

Includes the executive officer of a joint organisation

ICAC

The Independent Commission Against Corruption

Joint Organisation

A joint organisation established under section 400O of the LGA

Mayor

Includes the chairperson of a county council or a joint organisation

Members of Staff of a Council

Includes members of staff of county councils and joint organisations

The Office

The Office of Local Government

Investigator

A conduct reviewer

The Regulation

The *Local Government (General) Regulation 2005*

Respondent

A person whose conduct is the subject of investigation by a conduct reviewer under these procedures

Wholly Advisory Committee

A council committee that the council has not delegated any functions to

3 Administrative Framework

The establishment of a panel of conduct reviewers

- 3.1 The council must by resolution establish a panel of conduct reviewers.
- 3.2 The council may by resolution enter into an arrangement with one or more other councils to share a panel of conduct reviewers including through a joint organisation or another regional body associated with the councils.
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a conduct reviewer, a person must, at a minimum, meet the following requirements:
 - a an understanding of local government, and
 - b knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*, and
 - c knowledge and experience of one or more of the following:
 - i. investigations
 - ii. law
 - iii. public administration
 - iv. public sector ethics
 - v. alternative dispute resolution, and
 - d meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.
- 3.6 A person is not eligible to be a conduct reviewer if they are:
 - a a councillor, or
 - b a nominee for election as a councillor, or
 - c an administrator, or
 - d an employee of a council, or
 - e a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - f a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - g a person who has a conviction for an indictable offence that is not an expired conviction.
- 3.7 A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.
- 3.8 An incorporated or other entity may be appointed to a council's panel of conduct reviewers where the council is satisfied that all the persons who will

be undertaking the functions of a conduct reviewer on behalf of the entity meet the selection and eligibility criteria prescribed under this Part.

- 3.9 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.10 The council may terminate the panel of conduct reviewers at any time by resolution. Where a panel of conduct reviewers has been terminated, conduct reviewers who were members of the panel may continue to deal with any matter referred to them under these procedures prior to the termination of the panel until they have finalised their consideration of the matter.
- 3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council if they continue to meet the selection and eligibility criteria for membership of the panel.

The appointment of an internal ombudsman to a panel of conduct reviewers

- 3.13 Despite clause 3.6(d), an employee of a council who is the nominated internal ombudsman of one or more councils may be appointed to a council's panel of conduct reviewers with the Office's consent.
- 3.14 To be appointed to a council's panel of conduct reviewers, an internal ombudsman must meet the qualification requirements for conduct reviewers prescribed under clause 3.5 as modified by the operation of clause 3.13.
- 3.15 An internal ombudsman appointed to a council's panel of conduct reviewers may also exercise the functions of the council's complaints coordinator. For the purposes of clause 6.1, an internal ombudsman who is a council's complaints coordinator and has been appointed to the council's panel of conduct reviewers, may either undertake a preliminary assessment and investigation of a matter referred to them under clauses 5.26 or 5.33 or refer the matter to another conduct reviewer in accordance with clause 6.2.
- 3.16 Clause 6.4(c) does not apply to an internal ombudsman appointed to a council's panel of conduct reviewers.

The appointment of complaints coordinators

- 3.17 The general manager must appoint a member of staff of the council or another person (such as, but not limited to, a member of staff of another council or a member of staff of a joint organisation or other regional body associated with the council), to act as a complaints coordinator. Where the complaints coordinator is a member of staff of the council, the complaints coordinator should be a senior and suitably qualified member of staff.

- 3.18 The general manager may appoint other members of staff of the council or other persons (such as, but not limited to, members of staff of another council or members of staff of a joint organisation or other regional body associated with the council), to act as alternates to the complaints coordinator.
- 3.19 The general manager must not undertake the role of complaints coordinator.
- 3.20 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.
- 3.21 The role of the complaints coordinator is to:
 - a coordinate the management of complaints made under the council's code of conduct
 - b liaise with and provide administrative support to a conduct reviewer
 - c liaise with the Office and
 - d arrange the annual reporting of code of conduct complaints statistics.

4 How may Code of Conduct Complaints be Made?

What is a code of conduct complaint?

- 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that shows or tends to show conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct if proven.
- 4.2 The following are not "code of conduct complaints" for the purposes of these procedures:
 - a complaints about the standard or level of service provided by the council or a council official
 - b complaints that relate solely to the merits of a decision made by the council or a council official or the exercise of a discretion by the council or a council official
 - c complaints about the policies or procedures of the council
 - d complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council's code of conduct.
- 4.3 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a code of conduct complaint are to be dealt with under the council's routine complaints management processes.

When must a code of conduct complaint be made?

- 4.4 A code of conduct complaint must be made within three months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.
- 4.5 A complaint made after 3 months may only be accepted if the general manager or their delegate, or, in the case of a complaint about the general manager, the mayor or their delegate, is satisfied that the allegations are serious and compelling grounds exist for the matter to be dealt with under the code of conduct.

How may a code of conduct complaint about a council official other than the general manager be made?

- 4.6 All code of conduct complaints other than those relating to the general manager are to be made to the general manager in writing. This clause does not operate to prevent a person from making a complaint to an external agency.
- 4.7 Where a code of conduct complaint about a council official other than the general manager cannot be made in writing, the complaint must be

confirmed with the complainant in writing as soon as possible after the receipt of the complaint.

- 4.8 In making a code of conduct complaint about a council official other than the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.9 The general manager or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.10 Notwithstanding clauses 4.6 and 4.7, where the general manager becomes aware of a possible breach of the council's code of conduct, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

How may a code of conduct complaint about the general manager be made?

- 4.11 Code of conduct complaints about the general manager are to be made to the mayor in writing. This clause does not operate to prevent a person from making a complaint about the general manager to an external agency.
- 4.12 Where a code of conduct complaint about the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.13 In making a code of conduct complaint about the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.14 The mayor or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.15 Notwithstanding clauses 4.11 and 4.12, where the mayor becomes aware of a possible breach of the council's code of conduct by the general manager, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

5 How are Code of Conduct Complaints to be Managed?

Delegation by general managers and mayors of their functions under this Part

- 5.1 A general manager or mayor may delegate their functions under this Part to a member of staff of the council or to a person or persons external to the council other than an external agency. References in this Part to the general manager or mayor are also to be taken to be references to their delegates.

Consideration of complaints by general managers and mayors

- 5.2 In exercising their functions under this Part, general managers and mayors may consider the complaint assessment criteria prescribed under clause 6.31.

What complaints may be declined at the outset?

- 5.3 Without limiting any other provision in these procedures, the general manager or, in the case of a complaint about the general manager, the mayor, may decline to deal with a complaint under these procedures where they are satisfied that the complaint:
- a is not a code of conduct complaint, or
 - b subject to clause 4.5, is not made within 3 months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct, or
 - c is trivial, frivolous, vexatious or not made in good faith, or
 - d relates to a matter the substance of which has previously been considered and addressed by the council and does not warrant further action, or
 - e is not made in a way that would allow the alleged conduct and any alleged breaches of the council's code of conduct to be readily identified.

How are code of conduct complaints about staff (other than the general manager) to be dealt with?

- 5.4 The general manager is responsible for the management of code of conduct complaints about members of staff of council (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.5 The general manager must refer code of conduct complaints about members of staff of council alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.6 The general manager may decide to take no action in relation to a code of conduct complaint about a member of staff of council other than one

requiring referral to the Office under clause 5.5 where they consider that no action is warranted in relation to the complaint.

- 5.7 Where the general manager decides to take no action in relation to a code of conduct complaint about a member of staff of council, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.8 Code of conduct complaints about members of staff of council must be managed in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.9 Sanctions for breaches of the code of conduct by staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

How are code of conduct complaints about delegates of council, council advisers and council committee members to be dealt with?

- 5.10 The general manager is responsible for the management of code of conduct complaints about delegates of council and council committee members (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.11 The general manager must refer code of conduct complaints about council advisers, delegates of council and council committee members alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.12 The general manager may decide to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member other than one requiring referral to the Office under clause 5.11 where they consider that no action is warranted in relation to the complaint.
- 5.13 Where the general manager decides to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.14 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about delegates of council or council committee members, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.15 Where the general manager resolves a code of conduct complaint under clause 5.14 to the general manager's satisfaction, the general manager

must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.

- 5.16 Sanctions for breaches of the code of conduct by delegates of council and/or council committee members depend on the severity, scale and importance of the breach and may include one or more of the following:
- a censure
 - b requiring the person to apologise to any person or organisation adversely affected by the breach in such a time and form specified by the general manager
 - c prosecution for any breach of the law
 - d removing or restricting the person's delegation
 - e removing the person from membership of the relevant council committee.
- 5.17 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.16, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:
- a the substance of the allegation (including the relevant provision/s of the council's code of conduct that the alleged conduct is in breach of) must be put to the person who is the subject of the allegation, and
 - b the person must be given an opportunity to respond to the allegation, and
 - c the general manager must consider the person's response in deciding whether to impose a sanction under clause 5.16.

How are code of conduct complaints about administrators to be dealt with?

- 5.18 The general manager must refer all code of conduct complaints about administrators to the Office for its consideration.
- 5.19 The general manager must notify the complainant of the referral of their complaint in writing.

How are code of conduct complaints about councillors to be dealt with?

- 5.20 The general manager must refer the following code of conduct complaints about councillors to the Office:
- a complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
 - b complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interest arising from political donations (see section 328B of the LGA)
 - c complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct

- d complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.21 Where the general manager refers a complaint to the Office under clause 5.20, the general manager must notify the complainant of the referral in writing.
- 5.22 The general manager may decide to take no action in relation to a code of conduct complaint about a councillor, other than one requiring referral to the Office under clause 5.20, where they consider that no action is warranted in relation to the complaint.
- 5.23 Where the general manager decides to take no action in relation to a code of conduct complaint about a councillor, the general manager must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.24 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.25 Where the general manager resolves a code of conduct complaint under clause 5.24 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.26 The general manager must refer all code of conduct complaints about councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaints coordinator.

How are code of conduct complaints about the general manager to be dealt with?

- 5.27 The mayor must refer the following code of conduct complaints about the general manager to the Office:
 - a complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
 - b complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
 - c complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.28 Where the mayor refers a complaint to the Office under clause 5.27, the mayor must notify the complainant of the referral in writing.

- 5.29 The mayor may decide to take no action in relation to a code of conduct complaint about the general manager, other than one requiring referral to the Office under clause 5.27, where they consider that no action is warranted in relation to the complaint.
- 5.30 Where the mayor decides to take no action in relation to a code of conduct complaint about the general manager, the mayor must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.31 Where the mayor considers it to be practicable and appropriate to do so, the mayor may seek to resolve code of conduct complaints about the general manager, other than those requiring referral to the Office under clause 5.27, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.32 Where the mayor resolves a code of conduct complaint under clause 5.31 to the mayor's satisfaction, the mayor must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.33 The mayor must refer all code of conduct complaints about the general manager, other than those referred to the Office under clause 5.27 or finalised under clause 5.30 or resolved under clause 5.31, to the complaints coordinator.

How are complaints about both the general manager and the mayor to be dealt with?

- 5.34 Where the general manager or mayor receives a code of conduct complaint that alleges a breach of the code of conduct by both the general manager and the mayor, the general manager or mayor must either:
- a delegate their functions under this part with respect to the complaint to a member of staff of the council other than the general manager where the allegation is not serious, or to a person external to the council, or
 - b refer the matter to the complaints coordinator under clause 5.26 and clause 5.33.

Referral of code of conduct complaints to external agencies

- 5.35 The general manager, mayor or a conduct reviewer may, at any time, refer a code of conduct complaint to an external agency for its consideration, where they consider such a referral is warranted.
- 5.36 The general manager, mayor or a conduct reviewer must report to the ICAC any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct.

- 5.37 Where the general manager, mayor or conduct reviewer refers a complaint to an external agency under clause 5.35, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 5.38 Referral of a matter to an external agency shall finalise consideration of the matter under these procedures unless the council is subsequently advised otherwise by the referral agency.

Disclosure of the identity of complainants

- 5.39 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:
- a the complainant consents in writing to the disclosure, or
 - b it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
 - c it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or
 - d a conduct reviewer is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
 - e it is otherwise in the public interest to do so.
- 5.40 Clause 5.39 does not apply to code of conduct complaints made by councillors about other councillors or the general manager.
- 5.41 Where a councillor makes a code of conduct complaint about another councillor or the general manager, and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.
- 5.42 A request made by a complainant councillor under clause 5.41 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.
- 5.43 The general manager or mayor, and where the matter is referred to a conduct reviewer, the conduct reviewer, must consider a request made under clause 5.41 before disclosing information that identifies or tends to identify the complainant councillor, but they are not obliged to comply with the request.
- 5.44 Where a complainant councillor makes a request under clause 5.41, the general manager or mayor or, where the matter is referred to a conduct reviewer, the conduct reviewer, shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

Code of conduct complaints made as public interest disclosures

- 5.45 These procedures do not override the provisions of the *Public Interest Disclosures Act 1994*. Code of conduct complaints that are made as public

interest disclosures under that Act are to be managed in accordance with the requirements of that Act, the council's internal reporting policy, and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.

- 5.46 Where a councillor makes a code of conduct complaint about another councillor or the general manager as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant councillor must consent in writing to the disclosure of their identity as the complainant.
- 5.47 Where a complainant councillor declines to consent to the disclosure of their identity as the complainant under clause 5.46, the general manager or the mayor must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.

Special complaints management arrangements

- 5.48 The general manager may request in writing that the Office enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.
- 5.49 Where the Office receives a request under clause 5.48, it may agree to enter into a special complaints management arrangement if it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:
- a imposed an undue and disproportionate cost burden on the council's administration of its code of conduct, or
 - b impeded or disrupted the effective administration by the council of its code of conduct, or
 - c impeded or disrupted the effective functioning of the council.
- 5.50 A special complaints management arrangement must be in writing and must specify the following:
- a the code of conduct complaints the arrangement relates to, and
 - b the period that the arrangement will be in force.
- 5.51 The Office may, by notice in writing, amend or terminate a special complaints management arrangement at any time.
- 5.52 While a special complaints management arrangement is in force, an officer of the Office (the assessing OLG officer) must undertake the preliminary assessment of the code of conduct complaints specified in the arrangement in accordance with the requirements of Part 6 of these procedures.
- 5.53 Where, following a preliminary assessment, the assessing OLG officer determines that a code of conduct complaint warrants investigation by a conduct reviewer, the assessing OLG officer shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing OLG officer.

- 5.54 Prior to the expiry of a special complaints management arrangement, the Office may, at the request of the general manager, review the arrangement to determine whether it should be renewed or amended.
- 5.55 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.54.

6 Preliminary Assessment of Code of Conduct Complaints about Councillors or the General Manager by Conduct Reviewers

Referral of code of conduct complaints about councillors or the general manager to conduct reviewers

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the general manager that have not been referred to an external agency or declined or resolved by the general manager, mayor or their delegate and that have been referred to them under clauses 5.26 or 5.33, to a conduct reviewer within 21 days of receipt of the complaint by the general manager or the mayor.
- 6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
 - a a panel of conduct reviewers established by the council, or
 - b a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Office.
- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.
- 6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
 - a they have a conflict of interest in relation to the matter referred to them, or
 - b a reasonable apprehension of bias arises in relation to their consideration of the matter, or
 - c they or their employer has entered into one or more contracts with the council (other than contracts relating to the exercise of their functions as a conduct reviewer) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a value that, when aggregated, exceeds \$100,000, or
 - d at the time of the referral, they or their employer are the council's legal service provider or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 5.2 of the Model Code of Conduct).
- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct

reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.

- 6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council, including any information about previous proven breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer, and advise which conduct reviewer the matter has been referred to.
- 6.9 Conduct reviewers must comply with these procedures in their consideration of matters that have been referred to them and exercise their functions in a diligent and timely manner.
- 6.10 The complaints coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the complaints coordinator is satisfied that the conduct reviewer has failed to:
- a comply with these procedures in their consideration of the matter, or
 - b comply with a lawful and reasonable request by the complaints coordinator, or
 - c exercise their functions in a timely or satisfactory manner.
- 6.11 Where the complaints coordinator terminates a referral to a conduct reviewer under clause 6.10, they must notify the complainant and any other affected person in writing of their decision and the reasons for it and advise them which conduct reviewer the matter has been referred to instead.

Preliminary assessment of code of conduct complaints about councillors or the general manager by a conduct reviewer

- 6.12 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.
- 6.13 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:
- a to take no action
 - b to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - c to refer the matter back to the general manager or, in the case of a complaint about the general manager, the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - d to refer the matter to an external agency

- e to investigate the matter.
- 6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.
- 6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.
- 6.16 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.
- 6.18 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.
- 6.19 The resolution of a code of conduct complaint under clause 6.13, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.
- 6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:
 - a that the complaint is a code of conduct complaint for the purposes of these procedures, and
 - b that the alleged conduct is sufficiently serious to warrant investigation, and
 - c that the matter is one that could not or should not be resolved by alternative means.
- 6.23 In determining whether a matter is sufficiently serious to warrant investigation, the conduct reviewer is to consider the following:
 - a the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
 - b the likely impact of the alleged conduct on the reputation of the council and public confidence in it

- c whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
 - d any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.24 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator and notify the complaints coordinator in writing of the outcome of their assessment.
- 6.25 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.

Referral back to the general manager or mayor for resolution

- 6.26 Where the conduct reviewer determines to refer a matter back to the general manager or to the mayor to be resolved by alternative and appropriate means, they must write to the general manager or, in the case of a complaint about the general manager, to the mayor, recommending the means by which the complaint may be resolved.
- 6.27 The conduct reviewer must consult with the general manager or mayor prior to referring a matter back to them under clause 6.13(c).
- 6.28 The general manager or mayor may decline to accept the conduct reviewer's recommendation. In such cases, the conduct reviewer may determine to deal with the complaint by other means under clause 6.13.
- 6.29 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager or, in the case of a complaint about the general manager, the mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.
- 6.30 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager, or, in the case of a complaint about the general manager, the mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

Complaints assessment criteria

- 6.31 In undertaking the preliminary assessment of a complaint, the conduct reviewer must have regard to the following considerations:
 - a whether the complaint is a code of conduct complaint for the purpose of these procedures
 - b whether the complaint has been made in a timely manner in accordance with clause 4.4, and if not, whether the allegations are sufficiently serious for compelling grounds to exist for the matter to be dealt with under the council's code of conduct

- c whether the complaint is trivial, frivolous, vexatious or not made in good faith
- d whether the complaint discloses prima facie evidence of conduct that, if proven, would constitute a breach of the code of conduct
- e whether the complaint raises issues that would be more appropriately dealt with by an external agency
- f whether there is or was an alternative and satisfactory means of redress available in relation to the conduct complained of
- g whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
- h whether the issue/s giving rise to the complaint have previously been addressed or resolved
- i any previous proven breaches of the council's code of conduct
- j whether the conduct complained of forms part of an ongoing pattern of behaviour
- k whether there were mitigating circumstances giving rise to the conduct complained of
- l the seriousness of the alleged conduct (having regard to the criteria specified in clause 6.23)
- m the significance of the conduct or the impact of the conduct for the council
- n how much time has passed since the alleged conduct occurred
- o such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

7 Investigations of Code of Conduct Complaints About Councillors or the General Manager

What matters may a conduct reviewer investigate?

- 7.1 A conduct reviewer (hereafter referred to as an "investigator") may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 7.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the general manager, or, in the case of alleged conduct on the part of the general manager, to the mayor.
- 7.3 The general manager or the mayor or their delegate is to deal with a matter reported to them by an investigator under clause 7.2 as if it were a new code of conduct complaint in accordance with these procedures.

How are investigations to be commenced?

- 7.4 The investigator must at the outset of their investigation provide a written notice of investigation to the respondent. The notice of investigation must:
 - a disclose the substance of the allegations against the respondent, and
 - b advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
 - c advise of the process to be followed in investigating the matter, and
 - d advise the respondent of the requirement to maintain confidentiality, and
 - e invite the respondent to make a written submission in relation to the matter within at least 14 days or such other period specified by the investigator in the notice, and
 - f provide the respondent the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 7.5 The respondent may, within 7 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the respondent to identify the substance of the allegation against them.
- 7.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the respondent in relation to the matter referred to them.
- 7.7 Where an investigator issues an amended notice of investigation, they must provide the respondent with a further opportunity to make a written submission in response to the amended notice of investigation within at least 14 days or such other period specified by the investigator in the amended notice.

- 7.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the complainant, the complaints coordinator and the mayor. The notice must:
- a advise them of the matter the investigator is investigating, and
 - b in the case of the notice to the complainant, advise them of the requirement to maintain confidentiality, and
 - c invite the complainant to make a written submission in relation to the matter within at least 14 days or such other period specified by the investigator in the notice.

Written and oral submissions

- 7.9 Where the respondent or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 7.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 7.11 Prior to preparing a draft report, the investigator must give the respondent an opportunity to address the investigator on the matter being investigated. The respondent may do so in person or by telephone or other electronic means.
- 7.12 Where the respondent fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the respondent.
- 7.13 Where the respondent accepts the opportunity to address the investigator in person, they may have a support person or legal adviser in attendance. The support person or legal adviser will act in an advisory or support role to the respondent only. They must not speak on behalf of the respondent or otherwise interfere with or disrupt proceedings.
- 7.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

How are investigations to be conducted?

- 7.15 Investigations are to be undertaken without undue delay.
- 7.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 7.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.

- 7.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 7.19 An investigator may request that the complaints coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

Referral or resolution of a matter after the commencement of an investigation

- 7.20 At any time after an investigator has issued a notice of investigation and before they have issued a draft report, an investigator may determine to:
- a resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
 - b refer the matter to the general manager, or, in the case of a complaint about the general manager, to the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
 - c refer the matter to an external agency.
- 7.21 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 7.22 The resolution of a code of conduct complaint under clause 7.20, paragraphs (a) or (b) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 7.23 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they may by written notice to the respondent, the complainant, the complaints coordinator and the general manager, or in the case of a complaint about the general manager, to the respondent, the complainant, the complaints coordinator and the mayor, discontinue their investigation of the matter.
- 7.24 Where the investigator discontinues their investigation of a matter under clause 7.23, this shall finalise the consideration of the matter under these procedures.
- 7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 7.20 or to discontinue their investigation except as may be specifically required under these procedures.

Draft investigation reports

- 7.26 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 7.27 The investigator must provide their draft report to the respondent and invite them to make a written submission in relation to it within at least 14 days or such other period specified by the investigator.
- 7.28 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within at least 14 days or such other period specified by the investigator.
- 7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the respondent or an affected person, they must provide the respondent or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.
- 7.31 Where the respondent or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

Final investigation reports

- 7.33 Where an investigator issues a notice of investigation they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.
- 7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 7.35 The investigator's final report must:
- a make findings of fact in relation to the matter investigated, and,
 - b make a determination that the conduct investigated either,
 - i. constitutes a breach of the code of conduct, or
 - ii. does not constitute a breach of the code of conduct, and
 - c provide reasons for the determination.

- 7.36 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- a that the council revise any of its policies, practices or procedures
 - b that the respondent undertake any training or other education relevant to the conduct giving rise to the breach
 - c that the respondent be counselled for their conduct
 - d that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative
 - e that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the recommendation
 - f that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation
 - g that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the council meeting at which the matter is considered
 - h in the case of a breach by the general manager, that action be taken under the general manager's contract
 - i in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA
 - j in the case of a breach by a councillor, that the council resolves as follows:
 - i. that the councillor be formally censured for the breach under section 440G of the LGA, and
 - ii. that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.37 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- a that the council revise any of its policies, practices or procedures
 - b that a person or persons undertake any training or other education.
- 7.38 In making a recommendation under clause 7.36, the investigator may have regard to the following:
- a the seriousness of the breach
 - b whether the breach can be easily remedied or rectified
 - c whether the respondent has remedied or rectified their conduct
 - d whether the respondent has expressed contrition
 - e whether there were any mitigating circumstances
 - f the age, physical or mental health or special infirmity of the respondent
 - g whether the breach is technical or trivial only
 - h any previous proven breaches
 - i whether the breach forms part of an ongoing pattern of behaviour
 - j the degree of reckless intention or negligence of the respondent
 - k the extent to which the breach has affected other parties or the council as a whole

- l the harm or potential harm to the reputation of the council or local government in general arising from the conduct
 - m whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny
 - n whether an educative approach would be more appropriate than a punitive one
 - o the relative costs and benefits of taking formal disciplinary action as opposed to taking no action or taking informal action
 - p what action or remedy would be in the public interest.
- 7.39 Where the investigator proposes to make a recommendation under clause 7.36(j), the investigator must first consult with the Office on their proposed findings, determination and recommendation prior to finalising their report, and must take any comments by the Office into consideration when finalising their report.
- 7.40 At a minimum, the investigator's final report must contain the following information:
 - a a description of the allegations against the respondent
 - b the relevant provisions of the code of conduct that apply to the alleged conduct investigated
 - c a statement of reasons as to why the matter warranted investigation (having regard to the criteria specified in clause 6.23)
 - d a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means
 - e a description of any attempts made to resolve the matter by use of alternative means
 - f the steps taken to investigate the matter
 - g the facts of the matter
 - h the investigator's findings in relation to the facts of the matter and the reasons for those findings
 - i the investigator's determination and the reasons for that determination
 - j any recommendations.
- 7.41 The investigator must provide a copy of their report to the complaints coordinator and the respondent.
- 7.42 At the time the investigator provides a copy of their report to the complaints coordinator and the respondent, the investigator must provide the complainant with a written statement containing the following information:
 - a the investigator's findings in relation to the facts of the matter and the reasons for those findings
 - b the investigator's determination and the reasons for that determination
 - c any recommendations, and
 - d such other additional information that the investigator considers may be relevant.
- 7.43 Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to

the general manager's conduct, to the mayor, and this will finalise consideration of the matter under these procedures.

- 7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraph (a) only, the complaints coordinator must provide a copy of the investigator's report to the general manager. Where the general manager agrees with the recommendation/s, the general manager is responsible for implementing the recommendation/s.
- 7.45 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs (b) or (c) only, the complaints coordinator must provide a copy of the investigator's report to the general manager or, where the report relates to the general manager's conduct, to the mayor. The general manager is responsible for arranging the implementation of the recommendation/s where the report relates to a councillor's conduct. The mayor is responsible for arranging the implementation of the recommendation/s where the report relates to the general manager's conduct.
- 7.46 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)), the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.

Consideration of the final investigation report by Council

- 7.47 The role of the council in relation to a final investigation report is to impose a sanction if the investigator has determined that there has been a breach of the code of conduct and has made a recommendation in their final report under clause 7.36, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)).
- 7.48 The council is to close its meeting to the public to consider the final investigation report in cases where it is permitted to do so under section 10A of the LGA.
- 7.49 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interest in relation to the matter unless otherwise required to do so under the code of conduct.
- 7.50 Prior to imposing a sanction, the council must provide the respondent with an opportunity to make a submission to the council. A submission may be made orally or in writing. The respondent is to confine their submission to addressing the investigator's recommendation/s.

- 7.51 Once the respondent has made their submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.
- 7.52 The council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.
- 7.53 Prior to imposing a sanction, the council may by resolution:
- a request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
 - b seek an opinion from the Office in relation to the report.
- 7.54 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Office.
- 7.55 The investigator may make additional enquiries for the purpose of preparing a supplementary report.
- 7.56 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council and the respondent.
- 7.57 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.
- 7.58 The council is only required to provide the respondent a further opportunity to make an oral or written submission on a supplementary report if the supplementary report contains new information that is adverse to them.
- 7.59 A council may by resolution impose one or more of the following sanctions on a respondent:
- a that the respondent undertake any training or other education relevant to the conduct giving rise to the breach
 - b that the respondent be counselled for their conduct
 - c that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative
 - d that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the resolution
 - e that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the resolution
 - f that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the meeting
 - g in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach
 - h in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA
 - i in the case of a breach by a councillor:
 - i. that the councillor be formally censured for the breach under section 440G of the LGA, and

- ii. that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.60 The council is not obliged to adopt the investigator's recommendation/s. Where the council proposes not to adopt one or more of the investigator's recommendation/s, the council must resolve not to adopt the recommendation/s and state in its resolution the reasons for its decision.
- 7.61 Where the council proposes to impose a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator in their final report, the council must state in its resolution the reasons for its decision.
- 7.62 Where the council resolves not to adopt the investigator's recommendation/s or imposes a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator, the complaints coordinator must notify the Office of the council's decision and the reasons for it.

8 Oversight and Rights of Review

The Office's powers of review

- 8.1 The Office 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 these procedures or has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct in their consideration of a matter.
- 8.2 The Office may direct any person, including the council, to defer taking further action in relation to a matter under consideration under the council's code of conduct pending the completion of its review. Any person the subject of a direction must comply with the direction.
- 8.3 Where the Office undertakes a review of a matter under clause 8.1, it will notify the complaints coordinator and any other affected persons, of the outcome of the review.

Complaints about conduct reviewers

- 8.4 The general manager or their delegate must refer code of conduct complaints about conduct reviewers to the Office for its consideration.
- 8.5 The general manager must notify the complainant of the referral of their complaint about the conduct reviewer in writing.
- 8.6 The general manager must implement any recommendation made by the Office as a result of its consideration of a complaint about a conduct reviewer.

Practice rulings

- 8.7 Where a respondent and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to the Office to make a ruling on a question of procedure (a practice ruling).
- 8.8 Where the Office receives a request in writing for a practice ruling, the Office may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.
- 8.9 Where the Office makes a practice ruling, all parties must comply with it.
- 8.10 The Office may decline to make a practice ruling. Where the Office declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

Review of decisions to impose sanctions

- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.59, paragraph (i), may,

within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.

- 8.12 A review under clause 8.11 may be sought on the following grounds:
- a that the investigator has failed to comply with a requirement under these procedures, or
 - b that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or
 - c that in imposing its sanction, the council has failed to comply with a requirement under these procedures.
- 8.13 A request for a review made under clause 8.11 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.
- 8.14 The Office may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.
- 8.15 The Office may undertake a review of a matter without receiving a request under clause 8.11.
- 8.16 The Office will undertake a review of the matter on the papers. However, the Office may request that the complaints coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Office.
- 8.17 Where a person requests a review under clause 8.11, the Office may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Office.
- 8.18 The Office must notify the person who requested the review and the complaints coordinator of the outcome of the Office's review in writing and the reasons for its decision. In doing so, the Office may comment on any other matters the Office considers to be relevant.
- 8.19 Where the Office considers that the investigator or the council has erred, the Office may recommend that a decision to impose a sanction under these procedures be reviewed.
- 8.20 In the case of a sanction implemented by the general manager or mayor under clause 7.45, where the Office recommends that the decision to impose a sanction be reviewed:
- a the complaints coordinator must provide a copy of the Office's determination in relation to the matter to the general manager or the mayor, and
 - b the general manager or mayor must review any action taken by them to implement the sanction, and
 - c the general manager or mayor must consider the Office's recommendation in doing so.

- 8.21 In the case of a sanction imposed by the council by resolution under clause 7.59, where the Office recommends that the decision to impose a sanction be reviewed:
- a the complaints coordinator must, where practicable, arrange for the Office's determination to be tabled at the next ordinary council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary council meeting following the election, and
 - b the council must:
 - i. review its decision to impose the sanction, and
 - ii. consider the Office's recommendation in doing so, and
 - iii. resolve to either rescind or reaffirm its previous resolution in relation to the matter.
- 8.22 Where, having reviewed its previous decision in relation to a matter under clause 8.21, the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.

9 Procedural Irregularities

- 9.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct, except as may be otherwise specifically provided under the code of conduct.
- 9.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:
 - a the non-compliance is isolated and/or minor in nature, or
 - b reasonable steps are taken to correct the non-compliance, or
 - c reasonable steps are taken to address the consequences of the non-compliance.

10 Practice Directions

- 10.1 The Office may at any time issue a practice direction in relation to the application of these procedures.
- 10.2 The Office will issue practice directions in writing, by circular to all councils.
- 10.3 All persons performing a function prescribed under these procedures must consider the Office's practice directions when performing the function.

11 Reporting Statistics on Code of Conduct Complaints About Councillors and the General Manager

- 11.1 The complaints coordinator must arrange for the following statistics to be reported to the council within 3 months of the end of September of each year:
- a the total number of code of conduct complaints made about councillors and the general manager under the code of conduct in the year to September (the reporting period)
 - b the number of code of conduct complaints referred to a conduct reviewer during the reporting period
 - c the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage during the reporting period and the outcome of those complaints
 - d the number of code of conduct complaints investigated by a conduct reviewer during the reporting period
 - e without identifying particular matters, the outcome of investigations completed under these procedures during the reporting period
 - f the number of matters reviewed by the Office during the reporting period and, without identifying particular matters, the outcome of the reviews, and
 - g the total cost of dealing with code of conduct complaints made about councillors and the general manager during the reporting period, including staff costs.
- 11.2 The council is to provide the Office with a report containing the statistics referred to in clause 11.1 within 3 months of the end of September of each year.

12 Confidentiality

- 12.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.
- 12.2 Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or purported to make, the general manager or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future code of conduct complaint they make or purport to make.
- 12.3 Prior to seeking the Office's consent under clause 12.2, the general manager or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission within at least 14 days or such other period specified by the general manager or their delegate, and consider any submission made by them.
- 12.4 In giving its consent under clause 12.2, the Office must consider any submission made by the complainant to the general manager or their delegate.
- 12.5 The general manager or their delegate must give written notice of a determination made under clause 12.2 to:
 - a the complainant
 - b the complaints coordinator
 - c the Office, and
 - d any other person the general manager or their delegate considers should be notified of the determination.
- 12.6 Any requirement under these procedures that a complainant is to be provided with information about a code of conduct complaint that they have made or purported to make, will not apply to a complainant the subject of a determination made by the general manager or their delegate under clause 12.2.
- 12.7 Clause 12.6 does not override any entitlement a person may have to access to council information under the *Government Information (Public Access) Act 2009* or to receive information under the *Public Interest Disclosures Act 1994* in relation to a complaint they have made.

13 Additional Information

Policy responsibilities

In addition to the responsibilities outlined elsewhere in this Code:

- The General Manager is responsible for ensuring these Procedures are in place, is promoted and are applied.
- The Manager Governance & Risk is responsible for the maintenance of these Procedures and their promulgation to Council officials.

Review

Council is committed to continuous improvement, including achieving higher levels of 'good governance'. These Procedures will be reviewed at least each elected term of Council, and each time *The Model Code of Conduct* and associated *Model Code of Conduct Procedures* are amended.

Related documents

These procedures relate to:

- *Local Government Act 1993*
- *The Model Code of Conduct – March 2013*
- *The Model Code of Conduct Procedures – March 2013*
- Council's *Code of Conduct*.

Version history

Version	Release Date	Author	Reason for Change
1.0	07/12/2016	Bruce Cooke	Harmonised document from former Councils
2.0	18/08/2018	Coordinator Governance	Review of document
3.0	TBA	Coordinator Governance	Review of document

Council Meeting

8/05/2019

Item No	8.9
Subject	Code of Meeting Practice - Adoption Post Exhibition
Report by	Michael Mamo, Director City Performance
File	F11/563

Summary

Council at its meeting of 13 February 2019 resolved to place a revised Code of Meeting Practice based on the Model Code on public exhibition. No submissions were received as a result of the exhibition process and it is therefore considered that the exhibited draft Code be adopted.

Officer Recommendation

- 1 That the report on results of the public exhibition process be received and noted.
 - 2 That the draft Code of Meeting Practice as exhibited be adopted as attached to this report.
-

Background

A Model Code has been prescribed under the Local Government Act and Regulation. Councils are required to adopt a Code by 14 June 2019 that incorporates the mandatory provisions of the Model. Council may also wish to adopt the non-mandatory and supplementary provisions.

In accordance with section 361 of the Act, Council placed its draft Code on public exhibition for 28 days and allowed at least 42 days for submissions to be made. Council placed public notices in the two local newspapers and on its website on "Have Your Say". No submissions were received during this process.

Based on the public exhibition process, it is considered that the draft Code as exhibited should now be adopted. The proposed Code of Meeting Practice is attached to this report and retains the name of that exhibited i.e. Attachment 3 – Bayside Code of Meeting Practice February 2019 (Draft).

As a recap on the previous report to the February Council meeting, the mandatory and non-mandatory provisions of the Model Code are generally reflective of local government's current practice and that of this Council. There are some new provisions previously not in the Act or Regulations but these are seen as good administrative practice e.g. calling of Extra-Ordinary Meetings, the use of mayoral minutes and notices of motion, the debate on amendments.

Some non-mandatory provisions are not new within local government practice but not currently in place at Bayside such as dealing with multiple items in one resolution, rescission motions and the use of notices of motion and mayoral minutes. The adoption of the non-mandatory provisions are generally supported as good meeting practice.

The significant non-mandatory provisions included or excluded from the draft Code are as follows:

- **Notices of Motion by Councillors (included)** – with legal, strategic, financial or policy implications – General Manager may prepare a report to the same Meeting;
- **Notices of Motion by Councillors (included)** – with expenditure or services not in adopted operational plan – General Manager may prepare a report to the same Meeting or defer the notice to the next meeting;
- **Public Forums during meeting (excluded)** - preferred model by the Office of Local Government is to have the Public Forums prior to the meeting whereas Council's practice has been retained i.e. to include it as part of the meeting;
- **Registration of Speakers (included)** – Speakers will need to register to speak on whether Council should close the meeting to the Public (similar registration process to Public Forum speakers)
- **Cancellation of Meeting (included)** – where it is apparent that there will be a lack of a quorum or because of risk to the safety and welfare of attendees;
- **Modes of Address (included)** for the Mayor, Chairperson, Councillors and staff
- **Mayoral Minutes (included)** - with expenditure or services not in adopted operational plan and no source of funds identified – Council must defer pending a report by the General Manager to the next Meeting;
- **Motions/Amendment (included)** - requiring expenditure or services not in adopted operational plan - Council must defer pending a report by the General Manager to the next Meeting;
- **Dealing with Items by Exception (excluded)** – deal with multiple items in one resolution where no public speakers and no councillor wishes to speak against the recommendation.
- **Rescission Motion (included)** – moved at same meeting only in cases of urgency
- **Pre-Meeting Briefings (included)** – retention of existing practice of General Manager Briefing Sessions to inform Councillors on items of significance.
- **Taskforce & Advisory Committees (included)** – retention of existing provisions as to forums which include councillors and staff/community representatives.

Financial Implications

Not applicable



Community Engagement

No submissions were received during the public exhibition period.

Attachments

Attachment 3 - Bayside Council Code of Meeting Practice February 2019 (Draft) [↓](#)



Draft Code of Meeting Practice

Date: February 2019



TEXT LEGEND

Black: Mandatory provisions (Required) or same/similar to existing Code.

Red: New Non Mandatory provisions recommended

Purple: Non mandatory and/or custom provisions same or similar to existing Code & recommended

Yellow Highlight: for office use only

Notes included in this draft Code are explanatory notes and do not form part of this Code.

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Code of Meeting Practice

File: F11/563 Document: 19/15532

Policy Register: F16/951 Policy No.:

Class of document: Council Policy

Enquiries: Manager Governance & Risk



Telephone Interpreter Services - 131 450 Τηλεφωνικές Υπηρεσίες Διερμηνέων بخدمة الترجمة الهاتفية 電話傳譯服務處 Служба за превеждане по телефон

Code of Meeting Practice

2

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1 Introduction

1.1 Background

- 1.1.1 This code of meeting practice is based on the Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) made under section 360 of the Local Government Act 1993 (the Act) and the Local Government (General) Regulation 2005 (the Regulation).
- 1.1.2 This code applies to all meetings of council and committees of council 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.
- 1.1.3 This code of meeting practice incorporates the mandatory provisions of the Model Meeting Code.
- 1.1.4 This code of meeting practice also incorporate some of the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, this code of meeting practice does not contain provisions that are inconsistent with the mandatory provisions of the Model Meeting Code.
- 1.1.5 The provisions of the Model Meeting Code that are not mandatory are indicated in red font. [For discussion purposes only and to be deleted on final draft]
- 1.1.6 A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with this code of meeting practice.

1.2 Definitions

the Act	means the <i>Local Government Act 1993</i>
act of disorder	means an act of disorder as defined in clause 15.4.1 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
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 6.1.1 and 6.1.2 of this code, and in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 20.7.1 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 20.2.1 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
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 11.2.3 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 10.6.2 of this code during debate on the first amendment
foreshadowed motion	means a motion foreshadowed by a councillor under clause 10.6.1 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 2005</i>
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

1.3 Policy statement – Meeting Principles

1.3.1 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.

2 SCOPE OF CODE

This code applies to all meetings of councils and committees of councils and attendees at those meetings.

Notes in the text of this Code are explanatory notes and do not form part of this Code. They are provided to assist understanding.

3 BEFORE THE MEETING

3.1 Timing of ordinary council meetings

- 3.1.1 Ordinary meetings of the council will be held on the second Wednesday of each month (except January) commencing at 7:00pm at the Rockdale Town Hall, Princess Highway Rockdale or as otherwise determined by the Council and indicated in the Notices of Meeting.

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.

3.2 Extraordinary meetings

- 3.2.1 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:** This clause reflects section 366 of the Act.

3.3 Notice to the public of council meetings

- 3.3.1 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:** This clause reflects section 9(1) of the Act.
- 3.3.2 For the purposes of clause 3.3.1, 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.

- 3.3.3 For the purposes of **clause 3.3.1**, notice of more than one (1) meeting may be given in the same notice.

3.4 Notice to councillors of ordinary council meetings

- 3.4.1 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: This **clause** reflects section 367(1) of the Act.**
- 3.4.2 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: This **clause** reflects section 367(3) of the Act.**

3.5 Notice to councillors of extraordinary meetings

- 3.5.1 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency. **Note: This **clause** reflects section 367(2) of the Act.**

3.6 Giving notice of business to be considered at council meetings

- 3.6.1 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 **at least two (2) days** business days **prior to the day on which the business paper is prepared and delivered to Councillors** before the meeting is to be held.
- 3.6.2 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.
- 3.6.3 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.
- 3.6.4 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.

3.7 Questions with notice

- 3.7.1 A councillor may, by way of a notice submitted under [clause 3.6.1](#), ask a question for response by the general manager about the performance or operations of the council.
- 3.7.2 A councillor is not permitted to ask a question with notice under [clause 3.7.1](#) 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.
- 3.7.3 The general manager or their nominee may respond to a question with notice submitted under [clause 3.7.1](#) by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

3.8 Agenda and business papers for ordinary meetings

- 3.8.1 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.
- 3.8.2 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 3.6.1](#).
- 3.8.3 Nothing in [clause 3.8.2](#) limits the powers of the mayor to put a mayoral minute to a meeting under [clause 9.2.1](#).
- 3.8.4 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.
- 3.8.5 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: This clause reflects section 9(2A)(a) of the Act.**

3.8.6 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.

3.9 Availability of the agenda and business papers to the public

- 3.9.1 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: This clause reflects section 9(2) and (4) of the Act.**
- 3.9.2 **Clause 3.9.1** does not apply to the business papers for items of business that the general manager has identified under **clause 3.8.5** as being likely to be considered when the meeting is closed to the public. **Note: This clause reflects section 9(2A)(b) of the Act.**
- 3.9.3 For the purposes of **clause 3.9.1**, 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: This clause reflects section 9(3) of the Act.**
- 3.9.4 A copy of an agenda, or of an associated business paper made available under **clause 3.9.1**, may in addition be given or made available in electronic form. **Note: This clause reflects section 9(5) of the Act.**

3.10 Agenda and business papers for extraordinary meetings

- 3.10.1 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.
- 3.10.2 Despite **clause 3.10.1**, 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.

3.10.3 A motion moved under **clause 3.10.2a)** can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.

3.10.4 Despite **clause 10.7**, only the mover of a motion moved under **clause 3.10.2a)** can speak to the motion before it is put.

3.10.5 A motion of dissent cannot be moved against a ruling of the chairperson under **clause 3.10.2b)** on whether a matter is of great urgency.

3.11 Pre-meeting briefing sessions

3.11.1 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.

3.11.2 Pre-meeting briefing sessions are to be held in the absence of the public.

3.11.3 The general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.

3.11.4 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.

3.11.5 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

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.

Should the existing practice of holding public forums be preferred then these provisions will be incorporated as part for Meeting Practice

- 4.1 The council may hold a public forum **[prior to/during]** 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/during]** extraordinary council meetings and meetings of committees of the council.
- 4.2 Public forums are to be chaired by the Chairperson of the meeting.
- 4.3 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 **12 noon on the day of 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.
- 4.4 **A person may apply to speak on no more than three items of business on the agenda of the council meeting.**
- 4.5 **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.**
- 4.6 **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.**
- 4.7 Subject to fifteen (15) minutes will be allocated for discussion on any one item, with preference given to the arrangement where one person speaks for the motion and one speaks against the motion. Groups are encouraged to nominate a representative to make the presentation to the Council on behalf of the group.
- 8.1.5 Where two speakers have registered on the one subject, five (5) minutes will be given to each speaker. Where more than two speakers have registered to speak on the same item, the Chairperson will determine the equal allocation of time between speakers.
- 4.11 The general manager or their delegate is to determine the order of speakers at the public forum.
- 4.13 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.

- 4.14 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.
- 4.15 Speakers are under no obligation to answer a question put under **clause 4.14**.
- 4.16 Speakers at public forums cannot ask questions of the council, councillors or council staff.
- 4.17 The general manager or their nominee may, with the concurrence of the chairperson, address the council 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 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.
- 4.20 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in **clause 4.19**, 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.
- 4.21 **Clause 4.20** 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.
- 4.22 Where a speaker engages in conduct of the type referred to in **clause 4.19**, 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.
- 4.23 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.

5 COMING TOGETHER

5.1 Attendance by councillors at meetings

- 5.1.1 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.

- 5.1.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting.
- 5.1.3 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.
- 5.1.4 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.
- 5.1.5 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.
- 5.1.6 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: This clause reflects section 234(1)(d) of the Act.**
- 5.1.7 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.

5.2 The quorum for a meeting

- 5.2.1 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: This clause reflects section 368(1) of the Act.**
- 5.2.2 **Clause 5.2.1** 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: This clause reflects section 368(2) of the Act.**
- 5.2.3 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.
- 5.2.4 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.
- 5.2.5 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.
- 5.2.6 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the safety and welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster (such as, but not limited to flood or bushfire), 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.
- 5.2.7 Where a meeting is cancelled under **clause 5.2.6**, 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 3.2.1**.

5.3 Entitlement of the public to attend council meetings

- 5.3.1 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: This clause reflects section 10(1) of the Act.**
- 5.3.2 **Clause 5.3.1** does not apply to parts of meetings that have been closed to the public under section 10A of the Act.
- 5.3.3 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: This clause reflects section 10(2) of the Act.**

5.4 Webcasting of meetings

- 5.4.1 All meetings of the council and committees of the council are to be webcast on the council's website.
- 5.4.2 **Clause 5.4.1** does not apply to parts of a meeting that have been closed to the public under section 10A of the Act.

- 5.4.3 At the start of each meeting the chairperson is to make a statement informing those in attendance that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements.
- 5.4.4 A recording of each meeting of the council and committee of the council is to be retained on the council's website for **at least 3 months**. Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

5.5 Attendance of the general manager and other staff at meetings

- 5.5.1 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: This clause reflects section 376(1) of the Act.**
- 5.5.2 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: This clause reflects section 376(2) of the Act.**
- 5.5.3 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: This clause reflects section 376(3) of the Act.**
- 5.5.4 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.

6 THE CHAIRPERSON

6.1 The chairperson at meetings

- 6.1.1 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: This clause reflects section 369(1) of the Act.**
- 6.1.2 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: This clause reflects section 369(2) of the Act.**

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

- 6.2.1 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.
- 6.2.2 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.

- 6.2.3 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.
- 6.2.4 For the purposes of **clause 6.2.3**, 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.
- 6.2.5 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.
- 6.2.6 Any election conducted under **clause 6.2.1**, and the outcome of the vote, are to be recorded in the minutes of the meeting.

6.3 Chairperson to have precedence

- 6.3.1 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

- 8.1 The general order of business for an ordinary meeting of the council shall

be:

- 01 Opening meeting
- 02 Acknowledgement of country
- 03 Opening Prayer
- 04 Apologies and applications for a leave of absence by councillors
- 05 Confirmation of minutes
- 06 Disclosures of interests
- 07 Mayoral minute(s)
- 08 Public Forum **[If current practice continues]**
- 09 Officer Reports
- 10 Minutes of Committee Meetings
- 11 Notices of motions including rescission motions
- 12 Questions with notice
- 13 Confidential matters
- 14 Conclusion of the meeting

- 8.3 The order of business as fixed under **clause 8.1** 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.
- 8.4 Despite **clause 10.7**, 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

9.1 Business that can be dealt with at a council meeting

- 9.1.1 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 3.6.1**, and
 - (b) unless notice of the business has been sent to the councillors in accordance with **clause 3.4.1** in the case of an ordinary meeting or **clause 3.5.1** in the case of an extraordinary meeting called in an emergency.
- 9.1.2 **Clause 9.1.1** 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 9.2.4**, 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.

- 9.1.3 Despite **clause 9.1.1**, 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.
- 9.1.4 A motion moved under **clause 9.1.3 (a)** can be moved without notice. Despite **clause 10.7**, only the mover of a motion referred to in **clause 9.1.3 (a)** can speak to the motion before it is put.
- 9.1.5 A motion of dissent cannot be moved against a ruling by the chairperson under **clause 9.1.3 (b)**

9.2 Mayoral minutes

- 9.2.1 Subject to **clause 9.2.4**, 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.
- 9.2.2 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.
- 9.2.3 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.
- 9.2.4 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.
- 9.2.5 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.

9.3 Staff reports

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

9.4 Reports of committees of council

- 9.4.1 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.
- 9.4.2 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

9.5 Questions

- 9.5.1 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 3.6.1 and 3.7.1**.
- 9.5.2 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.
- 9.5.3 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 answer a question put to them through the general manager at the direction of the general manager.
- 9.5.4 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 documents. 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.
- 9.5.5 Councillors must put questions directly, succinctly, respectfully and without argument.
- 9.5.6 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

10.1 Motions to be seconded

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

10.2 Notices of motion

- 10.2.1 A councillor who has submitted a notice of motion under **clause 3.6.1** is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.2.2 If a councillor who has submitted a notice of motion under **clause 3.6.1** 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.
- 10.2.3 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.

10.3 Chairperson's duties with respect to motions

- 10.3.1 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.
- 10.3.2 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.
- 10.3.3 Before ruling out of order a motion or an amendment to a motion under **clause 10.3.2**, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.
- 10.3.4 Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been lost.

10.4 Motions requiring the expenditure of funds

- 10.4.1 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.

10.5 Amendments to motions

- 10.5.1 An amendment to a motion must be moved and seconded before it can be debated.
- 10.5.2 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.
- 10.5.3 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.
- 10.5.4 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.
- 10.5.5 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.
- 10.5.6 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.

- 10.5.7 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

10.6 Foreshadowed motions

- 10.6.1 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.
- 10.6.2 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.
- 10.6.3 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.

10.7 Limitations on the number and duration of speeches

- 10.7.1 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.
- 10.7.2 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.
- 10.7.3 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.
- 10.7.4 Despite **clause 10.7.3**, 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.
- 10.7.5 Despite **clause 10.7.3**, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.
- 10.7.6 Despite **clauses 10.7.1 and 10.7.2**, a councillor may move that a motion or an amendment be now put:
- 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
 - 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.

- 10.7.7 The chairperson must immediately put to the vote, without debate, a motion moved under **clause 10.7.6**. A seconder is not required for such a motion.
- 10.7.8 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 10.7.1**.
- 10.7.9 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.
- 10.7.10 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.
- 10.7.11 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

11.1 Voting entitlements of councillors

- 11.1.1 Each councillor is entitled to one (1) vote. Note: This **clause** reflects section 370(1) of the Act.
- 11.1.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote. **Note: This clause reflects section 370(2) of the Act.**
- 11.1.3 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.

11.2 Voting at council meetings

- 11.2.1 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.
- 11.2.2 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.
- 11.2.3 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.
- 11.2.4 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.
- 11.2.5 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 11.2.1** of this code.

- 11.2.6 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.

11.3 Voting on planning decisions

- 11.3.1 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.
- 11.3.2 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.
- 11.3.3 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.
- 11.3.4 **Clauses 11.3.1 - 11.3.3** apply also to meetings that are closed to the public.
- 11.3.5 Note: Clauses 11.3.1–11.3.4 reflect section 375A of the Act. The requirements of clause 11.3.1 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: **This clause 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

[Non-Mandatory provisions not included]

14 CLOSURE OF COUNCIL MEETINGS TO THE

PUBLIC

14.1 Grounds on which meetings can be closed to the public

14.1.1 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: This **clause** reflects section 10A(1) and (2) of the Act.

14.1.2 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:** This clause reflects section 10A(3) of the Act.

14.2 Matters to be considered when closing meetings to the public

14.2.1 A meeting is not to remain closed during the discussion of anything referred to in **clause 14.1.1**:

- (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: This clause reflects section 10B(1) of the Act.

14.2.2 A meeting is not to be closed during the receipt and consideration of information or advice referred to in **clause 14.1.1** (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: This clause reflects section 10B(2) of the Act.

14.2.3 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 14.1.2**), 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 14.1.1**.

Note: This clause reflects section 10B(3) of the Act.

14.2.4 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: This clause reflects section 10B(4) of the Act.

14.2.5 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 Chief Executive of the Office of Local Government. Note: This clause reflects section 10B(5) of the Act.

14.3 Notice of likelihood of closure not required in urgent cases

14.3.1 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 3.8.5** 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 14.1.1**, and
- (b) the council or committee, after considering any representations made under **clause 14.1.1**, 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: This **clause** reflects section 10C of the Act.

14.4 Representations by members of the public

- 14.4.1 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:** This **clause** reflects section 10A(4) of the Act.
- 14.4.2 A representation under **clause 14.1.1** is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.4.3 Where the matter has been identified in the agenda of the meeting under **clause 3.8.5** as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under **clause 14.1.1**, members of the public must first make an application to the council in the approved form. Applications must be received by 12 **noon on the day of the** meeting at which the matter is to be considered.
- 14.4.4 The general manager (or their delegate) may refuse an application made under **clause 14.4.3**. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 14.4.5 No more than **three** speakers are to be permitted to make representations under **clause 14.1.1**.
- 14.4.6 If more than the permitted number of speakers apply to make representations under **clause 14.1.1**, 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 14.1.1**, the general manager or their delegate is to determine who will make representations to the council.
- 14.4.7 The general manager (or their delegate) is to determine the order of speakers.
- 14.4.8 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 3.8.5** 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 14.4.1** after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than **three** speakers to make representations in

such order as determined by the chairperson.

- 14.4.9 Each speaker will be allowed **five (5)** 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.

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

- 14.5.1 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.
- 14.5.2 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.

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

- 14.6.1 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:
- the relevant provision of section 10A(2) of the Act,
 - the matter that is to be discussed during the closed part of the meeting,
 - 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: This **clause** reflects section 10D of the Act.

14.7 Resolutions passed at closed meetings to be made public

- 14.7.1 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.

- 14.7.2 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 14.7.1](#) during a part of the meeting that is webcast.

15 KEEPING ORDER AT MEETINGS

15.1 Points of order

- 15.1.1 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.
- 15.1.2 A point of order cannot be made with respect to adherence to the principles contained in [clause 1.3.1](#).
- 15.1.3 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.

15.2 Questions of order

- 15.2.1 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.
- 15.2.2 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.
- 15.2.3 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.
- 15.2.4 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

15.3 Motions of dissent

- 15.3.1 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.
- 15.3.2 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.
- 15.3.3 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.

15.4 Acts of disorder

15.4.1 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 or any regulation in force under the Act 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
- (d) insults or makes personal reflections on 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.

15.4.2 The chairperson may require a councillor:

- (a) to apologise without reservation for an act of disorder referred to in **clauses 15.4.1 (a) or (b)**, or
- (b) to withdraw a motion or an amendment referred to in **clauses 15.4.1 (c)** and, where appropriate, to apologise without reservation, or
- (c) to retract and apologise without reservation for an act of disorder referred to in **clauses 15.4.1 (d) and (e)**.

15.5 How disorder at a meeting may be dealt with

15.5.1 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.

15.6 Expulsion from meetings

15.6.1 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.

15.6.2 **Clause** 15.6.1, 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.

15.6.3 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 15.4.2**. 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.

- 15.6.4 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.
- 15.6.5 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.
- 15.6.6 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.

15.7 Use of mobile phones and the unauthorised recording of meetings

- 15.7.1 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.
- 15.7.2 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.
- 15.7.3 Any person who contravenes or attempts to contravene **clause 15.7.2**, may be expelled from the meeting as provided for under section 10(2) of the Act.
- 15.7.4 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.

17 DECISIONS OF THE COUNCIL

17.1 Council decisions

- 17.1.1 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:** This clause reflects section 371 of the Act
- 17.1.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

17.2 Rescinding or altering council decisions

- 17.2.1 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:** This clause reflects section 372(1) of the Act.
- 17.2.2 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:** This clause reflects section 372(2) of the Act.
- 17.2.3 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 3.6.1. **Note:** This clause reflects section 372(3) of the Act.
- 17.2.4 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:** This clause reflects section 372(4) of the Act.
- 17.2.5 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:** This clause reflects section 372(5) of the Act.
- 17.2.6 The provisions of clauses 17.2.3 - 17.2.5 concerning lost motions do not apply to motions of adjournment. **Note:** This clause reflects section 372(7) of the Act.
- 17.2.7 A notice of motion submitted in accordance with clause 17.2.3 may only be withdrawn under clause 3.6.2 with the consent of all signatories to the notice of motion.
- 17.2.8 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:** This clause reflects section 372(6) of the Act.
- 17.2.9 Subject to clause 17.2.4, 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.

17.2.10 A motion moved under clause 17.2.99 b can be moved without notice. Despite clause 10.7, only the mover of a motion referred to in clause 17.2.99 b can speak to the motion before it is put.

17.2.11 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.2.99 c.

17.3 Recommitting resolutions to correct an error

17.3.1 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.

17.3.2 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.3.1 a, the councillor is to propose alternative wording for the resolution.

17.3.3 The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.3.1 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.

17.3.4 A motion moved under clause 17.3.1 can be moved without notice. Despite clause 10.7, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.

17.3.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.3.1.

17.3.6 A motion moved under clause 17.3.1 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 11pm.

18.2 If the business of the meeting is unfinished at 11pm, 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 12 midnight, 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

19.1 Minutes of meetings

- 19.1.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council. **Note: This clause reflects section 375(1) of the Act.**
- 19.1.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:
 - (a) details of each motion moved at a council meeting and of any amendments moved to it,
 - (b) the names of the mover and seconder of the motion or amendment,
 - (c) whether the motion or amendment was passed or lost, and
 - (d) such other matters specifically required under this code.
- 19.1.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council. **Note: This clause reflects section 375(2) of the Act.**
- 19.1.4 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.
- 19.1.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting. **Note: This clause reflects section 375(2) of the Act.**
- 19.1.6 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.
- 19.1.7 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.

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

- 19.2.1 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: This clause reflects section 11(1) of the Act.**
- 19.2.2 **Clause 19.2.1** 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: This clause reflects section 11(2) of the Act.**
- 19.2.3 **Clause 19.2.1** 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: This clause reflects section 11(3) of the Act.**
- 19.2.4 Correspondence or reports to which **clauses 19.2.2 and 19.2.3** apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

19.3 Implementation of decisions of the council

- 19.3.1 The general manager is to implement, without undue delay, lawful decisions of the council. **Note: This clause reflects section 335(b) of the Act.**

20 COUNCIL COMMITTEES

20.1 Application of this Part

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

20.2 Council committees whose members are all councillors

- 20.2.1 The council may, by resolution, establish such committees as it considers necessary.
- 20.2.2 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.
- 20.2.3 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.

20.3 Functions of committees

- 20.3.1 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.

20.4 Notice of committee meetings

- 20.4.1 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.
- 20.4.2 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

20.5 Attendance at committee meetings

- 20.5.1 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.
- 20.5.2 **Clause 20.5.1** does not apply if all of the members of the council are members of the committee.

20.6 Non-members entitled to attend committee meetings

- 20.6.1 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.

20.7 Chairperson and deputy chairperson of council committees

20.7.1 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.

20.7.2 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.

20.7.3 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.

20.7.4 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.

20.8 Procedure in committee meetings

20.8.1 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](#).

20.8.2 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 20.8.1](#).

20.8.3 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).

20.9 Closure of committee meetings to the public

20.9.1 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.

20.9.2 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.

20.9.3 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 20.9.2 during a part of the meeting that is webcast.

20.10 Disorder in committee meetings

- 20.10.1 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.

20.11 Minutes of council committee meetings

- 20.11.1 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) details of each motion moved at a meeting and of any amendments moved to it,
 - (b) the names of the mover and seconder of the motion or amendment,
 - (c) whether the motion or amendment was passed or lost, and
 - (d) such other matters specifically required under this code.
- 20.11.2 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.
- 20.11.3 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.
- 20.11.4 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.
- 20.11.5 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.
- 20.11.6 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 TASK GROUPS AND ADVISORY COMMITTEES

21.1 Task Groups

- 21.1.1 The Council may appoint a group of Councillors and staff members to investigate a specific proposal and to report to the Council or appropriate Committee.
- 21.1.2 The Council shall determine the terms of reference for the Task Group, such to clearly state:

- a) the specific issues to be addressed
 - b) the time available to the Task Group to complete its investigation
- 21.1.3 The Task Group shall have the power to regulate its own procedures and need only report to the Council or Committee when a decision on policy or resources is required.
- 21.1.4 The Task Group shall be disbanded after the terms of reference have been completed. [Note: The General Manager appoints staff member representatives on Task Groups.]
- 21.1.5 A Task Group which includes staff and/or community representatives may be closed to the public. **Note: This clause reflects section 10A(1) of the Act.**

21.2 Advisory Committees

- 21.2.1 The Council may appoint a group of Councillors, staff and/or community representatives to undertake a particular administrative responsibility.
- 21.2.2 Where possible, community representatives on Advisory Committees shall be nominated by community organisations or through an expression of interest process..
- 21.2.3 The Council shall determine the terms of reference for the Advisory Committee.
- 21.2.4 Subject to the terms of reference, the Advisory Committee shall have power to regulate its own procedures.
- 21.2.5 Council can disband the Advisory Committee or alter its terms of reference and membership composition at any time.
- 21.2.6 An Advisory Committee which includes staff and/or community representatives may be closed to the public. **Note: This clause reflects section 10A(1) of the Act.**

22 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: This **clause** reflects section 374 of the Act.

23 Code implementation

23.1 Policy responsibilities

Outline the roles and responsibilities of all Council Officials involved, including the General Manager and 'all staff' as appropriate. The responsible manager and / or director may have additional responsibilities such as maintaining a register, approving submissions or providing training.

23.2 Procedures

Procedures that support this Code, may be approved by the General Manager from time to time and address such issues as:

- business paper process and related administrative workflow for approvals
- Guide and application forms for public speakers

23.3 Breaches

Describes the consequences of a breach of the policy. Consequences may include business and organisational reputation implications as well as punitive provisions.

24 Document control

24.1 Review

In accordance with section 360 of the Act, within 12 months after an ordinary election of Councillors, Council must adopt a Code of Meeting Practice. The Code is reviewed when relevant legislation changes. Council will public exhibit a draft code in accordance with section 361 of the Act prior to adopting a Code.

The Manager Governance & Risk may approve non-significant and/or minor editorial amendments including document design that do not change the policy substance.

24.2 Related documents

Local Government Act 1993

Local Government (General) Regulation 2005

Model Code of Meeting Practice for Local Councils in NSW (2018) prescribed by the

Local Government (General) Regulation.

24.3 Version history

Version	Release Date	Author	Reason for Change
1.0	January 2019	Fausto Sut Manager Governance & Risk	The legislation introducing a Model Code effectively requires Council's to adopt the Model Code subject to discretionary changes.

Council Meeting

8/05/2019

Item No	8.10
Subject	Disclosure of Interest Return
Report by	Michael Mamo, Director City Performance
File	SC18/1217

Summary

The Local Government Act, 1993 details the statutory requirements in respect of the lodgement of Disclosure of Pecuniary Interest and Other Matters Returns by Councillors and Designated Persons. It requires any Returns of Interest lodged with the General Manager to be tabled at the first meeting of Council held after the last day of lodgement of the return (which is three months after the start date of the Designated Person).

This report provides information regarding the Return recently lodged with the General Manager by a Designated Person.

Officer Recommendation

That the information be received and noted.

Background

Section 450A of the Local Government Act, 1993 relates to register a Pecuniary Interest Return and the tabling of this Return, which has been lodged by a Designated Person.

Section 450A of the Act is as follows:

450A Register and tabling of Returns:

- 1 The general manager must keep a register of returns required to be lodged with the general manager under section 449.***
- 2 Returns required to be lodged with the general manager under section 449 must be tabled at a meeting of the council, being:***
 - (a) in the case of a return lodged in accordance with section 449(1) – the first meeting held after the last day of lodgement under that subsection, or***
 - (b) in the case of a return in accordance with section 449(3) – the first meeting held after the last day for lodgement under that subsection, or***
 - (c) in the case of a return otherwise lodged with the general manager – the first meeting after lodgement.***

With regard to Section 450(1), a register of all Returns lodged by Councillors and Designated Persons in accordance with Section 449 of the Act is currently kept by Council as required by this part of the Act.

With regard to Section 450(2)(a), all Returns lodged by Designated Persons under Section 449(1) of the Act, (ie. their first Return) must be tabled at a Council Meeting within three months of being a Designated Person.

In accordance with Section 450A(2)(a), the following Section 449(1) return has been lodged.

Position	Return Date	Date Lodged
Procurement Specialist	07/01/2019	07/01/2019

The Return is now tabled in accordance with Section 450A(2)(a) of the Act and is available for inspection if required.

Financial Implications

Not applicable



Community Engagement

The issue raised in this report does not require community consultation under Council's Community Engagement Policy.

Attachments

Nil

Council Meeting

8/05/2019

Item No	8.11
Subject	Response to Question - Anti-Hooning Taskforce
Report by	Michael McCabe, Director City Futures
File	SF18/3015

Question

The following Question with Notice was submitted at Council's Meeting of 10 April 2019 by Councillor Tsounis:

Council at its meeting of 14 March 2018 considered a Mayoral Minute on an Anti-Hooning Taskforce which was accepted by the Council. Since then, the traffic issues in Brighton, specifically Bay Street and surrounding streets, have exacerbated.

How often has this taskforce met? What measures have been considered by this taskforce, and what proposals do they have to mitigate the hooning concerns of residents?

Response

The Taskforce held an inaugural meeting on 29 May 2018 which was jointly hosted by Bayside Council and the NSW Police. Attendees included all emergency agencies.

At the meeting, a brainstorming session was undertaken where the following measures were suggested:

- Speed / red light camera at the intersection of Bay Street and General Holmes Drive.
- Signage – clear messaging on walkway overpass “be considerate”.
- Extending participation and awareness of the local Area Command's Community Precinct Committees.

Following the scheduled agenda items, there was general agreement that regular meetings were not necessary and that the Brighton Le Sands Working Group or the Bayside Traffic Committee were the appropriate forums to discuss any further action required to deter hoons.

The next scheduled meeting of the Brighton Le Sands Working Party is 29 May 2019.

Attachments

Nil

Council Meeting

8/05/2019

Item No	9.1
Subject	Minutes of the Sport & Recreation Committee Meeting - 29 April 2019
Report by	Debra Dawson, Director City Life
File	SF18/3015

Officer Recommendation

That the Minutes of the Sport & Recreation Committee meeting held on 29 April 2019 be received and the recommendations therein be adopted.

Summary

The minutes include the following substantial recommendations:

5.6 Pagewood Botany Football Club - Jellicoe Park Fees

- 1 That priority is given to the review of the current fees and charges to be harmonised to provide parity for users across the Bayside LGA.
- 2 That the historical arrangement remain in place until the fees and charges are harmonised (July 2020 when new fees and charges will apply) and that the Manager Sport and Recreation advise PBFC that this reduced fee is subject to PBFC providing financial information in line with requirements for fee subsidy.

5.7 Botany Aquatic Centre Presentation Feedback

1. That this report be received and noted.
 2. Feedback was received that the grandstand is important and should be maintained. Additional car park spaces, careful consideration of positioning of pools & activities needs to be considered.
 3. That presentation to a GM Briefing be arranged to look at the next steps including funding, costs, options.
 4. That a feasibility report be provided on the sport centres / gym facilities.
 5. That a reference group be established.
-

Present

Councillor James Macdonald (Chair)
Councillor Christina Curry

Councillor Scott Morrissey
Councillor Liz Barlow
Councillor Andrew Tsounis
Councillor Dorothy Rapisardi
Councillor Bill Saravinovski
General Manager Meredith Wallace
Director City Life Debra Dawson
Manager Sport and Recreation Scott Field
Acting Coordinator Sport and Recreation Lorraine Want

Also Present

Clare Harley, Manager Strategic Planning
Samantha Urquhart, Manager Property
Ben Heraud, Coordinator Property
Debbie Fransen, Senior Strategic Asset Engineer
Ahmed Balaghe, Banksia Tigers
Hassan Chebli, Banksia Tigers
The Chairperson opened the meeting in the Level 2 Conference Room at 6:30 pm.

1 Acknowledgement of Traditional Owners

The Chairperson affirmed that Bayside Council respects the traditional custodians of the land, elders past and present and future leaders, on which this meeting takes place, and acknowledges the Gadigal and Bidjigal Clans of the Eora Nation.

2 Apologies

There were no apologies received.

3 Disclosures of Interest

There were no disclosures of interest.

4 Minutes of Previous Meetings

4.1 Minutes of the Sport & Recreation Committee Meeting - 25 February 2019

Committee Recommendation

That the Minutes of the Sport & Recreation Committee meeting held on 25 February 2019 be confirmed as a true record of proceedings.

5 Reports

5.1 Standing Items

Committee Recommendation

That the Sport & Recreation Committee receives the updates as provided.

5.2 Updated Proposed Concepts for McCarthy Reserve (Ador Precinct) and Brighton Memorial Reserve - RMS F6 Southlink Project

Committee Recommendation

- 1 That the report tabling the updated concept plans for McCarthy Reserve (Ador Precinct) and Brighton Memorial Reserve be received and noted.
- 2 That the Coordinator Property request that the McCarthy Reserve carpark have a separate entry and separate exit. That the proposed provision for an additional 36 spaces be confirmed and that bubblers are included in the design.
- 3 That the Coordinator Property request that the Brighton Memorial Reserve has an additional access point created to the carpark and that bubblers are included in the design.

5.3 Project Update Arncliffe Park and Gardiner Park Synthetic Fields

Committee Recommendation

- 1 That the project update for Arncliffe Park and Gardiner Park synthetic fields is received and noted.
- 2 That the Senior Strategic Asset Engineer include, in the condition of demolition, that the removal of the white fence be carried out so it can be re-used in a location yet to be determined by Council.
- 3 That the Senior Strategic Asset Engineer arrange an onsite meeting at Gardiner Park with flood impact images and designs, alternative design options including costs and funding options.
- 4 That the Senior Strategic Asset Engineer consider some aluminium seating for spectators in the design.

5.4 Ramadan 2019: Progress Update

Committee Recommendation

- 1 That the report be received and noted.

- 2 That the Coordinator Events advise the attendance numbers and measure the success of the event and this is to be reported back to the next Sport & Recreation Committee meeting.

5.5 Update on Scarborough Park Tennis Courts and Bexley Tennis Courts

Committee Recommendation

That the Sport & Recreation Committee receives and notes the report.

5.6 Pagewood Botany Football Club - Jellicoe Park Fees

Committee Recommendation

- 1 That priority is given to the review of the current fees and charges to be harmonised to provide parity for users across the Bayside LGA.
- 2 That the historical arrangement remain in place until the fees and charges are harmonised (July 2020 when new fees and charges will apply) and that the Manager Sport and Recreation advise PBFC that this reduced fee is subject to PBFC providing financial information in line with requirements for fee subsidy.

5.7 Botany Aquatic Centre Presentation Feedback

Committee Recommendation

- 1 That this report be received and noted.
- 2 Feedback was received that the grandstand is important and should be maintained. Additional car park spaces, careful consideration of positioning of pools & activities needs to be considered.
- 3 That presentation to a GM Briefing be arranged to look at the next steps including funding, costs, options.
- 4 That a feasibility report be provided on the sport centres / gym facilities.
- 5 That a reference group be established.

6 General Business

6.1 Botany Aquatic Outdoor Cinema Events

Councillor Curry discussed the success of the outdoor cinema movie nights and requested that a minimum of three outdoor cinema events be arranged and included in the yearly event program.

Committee Recommendation

The Sport & Recreation Committee support a Halloween, End of Season and Christmas event as well as a trial of a cinema night for an 18 years and over audience.

6.2 Beachside Dash

The Manager Sport and Recreation briefed the Committee that the St George and Sutherland Medical Research Foundation have requested assistance from Council.

Committee Recommendation

That the Manager Sport and Recreation write to the St George and Sutherland Medical Research Foundation and advise that Council would provide a fee waiver and collection of garbage as a contribution to the event.

6.3 Frequency of Sport and Recreation Committee

Councillor Macdonald suggested meetings be set every two months on the fourth Monday of each Month.

Committee Recommendation

That the Sport and Recreation Committee support the meetings be set every two months on the fourth Monday of each month.

7 Next Meeting

That the next meeting be held in the Level 2 Conference Room at 6.30pm on Monday 24 June 2019.

The Chairperson closed the meeting at 8:30 pm.

Attachments

Nil

Council Meeting

8/05/2019

Item No	9.2
Subject	Minutes of the Bayside Traffic Committee Meeting - 1 May 2019
Report by	Michael McCabe, Director City Futures
File	SF18/3015

Officer Recommendation

That the Minutes of the Bayside Traffic Committee meeting held on 1 May 2019 be received and the recommendations therein be adopted.

Present

Councillor Dorothy Rapisardi, Acting Convenor
St George Police Area Command Traffic Sergeant Sandra Dodd,
Botany Police Area Command Senior Constable Alexander Weissel,
Botany Police Area Command, Constable Joshua Gorman,
James Suprain representing Roads and Maritime Services,
Les Crompton representing State Member for Kogarah,
George Perivolarellis representing State Members for Rockdale and Heffron,

Also Present

Maritza Abra, Acting Manager City Infrastructure, Bayside Council,
Pintara Lay, Coordinator Traffic and Road Safety, Bayside Council,
Lyn Moore, NSW Pedestrian Council,
Rabih Bekdache, Transit Systems,
Yvonne Poon, BIKEast,
Peter Hannett, St George Bicycle User Group,
David Carroll, Senior Parking Patrol Officer, Bayside Council,
Agasteena Patel, Traffic Engineer, Bayside Council,
Robbie Allen, Strategic Transport Planning, Bayside Council
Rachael Cohen, Acting Traffic Committee Administration Officer, Bayside Council,

The Convenor opened the meeting in the Rockdale Town Hall, Pindari Room at 9.20am and affirmed that Bayside Council respects the traditional custodians of the land, elders past and present and future leaders, on which this meeting takes place, and acknowledges the Gadigal and Bidjigal Clans of the Eora Nation.

1 Apologies

The following apologies were received:

Harry Haidar, St George Cabs,

2 Disclosures of Interest

There were no disclosures of interest.

3 Minutes of Previous Meetings

BTC19.072 Minutes of the Bayside Traffic Committee Meeting - 3 April 2019

Committee Recommendation

- 1 That the Minutes of the Bayside Traffic Committee meeting held on 3 April 2019 be confirmed as a true record of proceedings.
- 2 That it be noted that the Committee recommendations included in the Minutes of the Bayside Traffic Committee meeting held on 03 April 2019 were adopted by the Council at its meeting held on 10 April 2019, except for the following:

BTC19.045 Avenal Street, Arncliffe –in front of Arncliffe Public School - parking

That approval be given for the installation of the following restrictions along the northern kerb line of Avenal Street, Arncliffe, east of Marinea Street:

1. 'P15 min 8.30 am- 9.30 am and 2.30 pm -3.30 pm, School days' at the 90 degree angle parking spaces along the frontage of Arncliffe Public School
2. Existing 14m 'P15min 8.30 am – 9.30 am and 2.30 pm – 3.30 pm School Days' be changed to full time 'No Stopping' restrictions.

4 Reports

BTC19.073 Barden Street eastern kerb line between properties Nos 2 and 20, south of Station Street, Arncliffe - proposed '2P, 8.30 am - 6 pm Permit Holders Excepted, Area ARN2' restriction

Committee Recommendation

That approval be given to the installation of '2P, 8.30 am – 6 pm, Permit Holders Excepted Area ARN2' restriction along the eastern kerb line of Barden Street, south of Station Street, in front of properties from No. 2 to No.20 Barden Street, Arncliffe.

BTC19.074 Beaconsfield Street and Harrow Road Bexley - Proposed signposting of 'No Stopping' restrictions

Committee Recommendation

- 1 That approval be given to the signposting of statutory 10m 'No Stopping' restrictions along western kerblines of Harrow Road on both sides of Beaconsfield Street, Bexley.
- 2 That approval be given to the signposting of 10m 'No Stopping' restrictions along southern kerblines of Beaconsfield Street west of Harrow Road, Bexley.
- 3 That approval be given to the signposting of 20m 'No Stopping' restrictions along northern kerblines of Beaconsfield Street west of Harrow Road, Bexley due to the presence of a pedestrian refuge island.

BTC19.075 Burch Lane west of Botany Road, Mascot - Proposed 'No Parking' restrictions

Committee Recommendation

1. That the approval be given to the installation of parking restrictions along the western kerb line of Burch Lane south of Miles Street, as follows:
 - From 0 to a point 24m – Retain 'No Stopping' restriction
 - From 24m to 44m – Proposed change of existing [3P, 8am-6pm Mon- Fri, 8am-12pm Sat, Permit Holders Excepted – Area D] restriction to 'No Parking' restriction
 - From 44m to 58m – Retain 'No Stopping' restriction
2. That the approval be given to the installation of parking restriction along the western kerb line of Burch Lane south of Hughes Avenue as follows:
 - From 0 to a point of 10m – Retain 'No Stopping' restriction
 - From 10m to 45m – Proposed change of existing [3P, 8am-6pm Mon- Fri, 8am-12pm Sat, Permit Holders Excepted – Area D] restriction to 'No Parking' restriction
 - From 45m to 55m – Retain 'No Stopping' restriction

That the approval be given to the installation of parking restrictions along the western kerb line of Burch Lane south of Carinya Avenue, as follows:

 - From 0m to a point of 10m – Retain 'No Stopping' restriction
 - From 10m to 24m – Proposed change of existing [3P, 8am-6pm Mon- Fri, 8am-12pm Sat, Permit Holders Excepted – Area D] restriction to 'No Parking' restriction
3. That existing 'No Stopping' zones along the eastern side of Burch Lane be retained from Miles Street to a point 55m south of Carinya Avenue,

BTC19.077 Carruthers Drive Dolls Point - Proposed additional 'No Stopping' signs around turning bay at the cul de sac end of the public car park

Committee Recommendation

That approval be given to the installation of three additional 'No Stopping' signs at the following locations at the cul de sac end of Carruthers Drive, Dolls Point:

- Adjacent to bollards along the northern kerb line – No Stopping [L]
- Adjacent to bollards along the southern kerb line – No Stopping [R]
- End of turning bay along the southern kerb line – No Stopping [L]

BTC19.076 Edward Street Botany opposite Botany Town Hall - Proposed replacement of existing 'No Parking 5.30 pm - 8.30 pm Wed Council Vehicles Excepted' restriction with '2P 6 am - 6 pm' restriction

Committee Recommendation

That approval be given to the replacement of the existing 'No Parking 5.30 pm – 8.30 pm Wednesdays, Council Vehicles Excepted' restriction with a '2P, 6 am – 6 pm' restriction along the southern kerb line of Edward Street, east of Botany Road, opposite Botany Town Hall, as follows:

- from 0m to a point 11m – retain existing 'No Stopping' restriction
- from 11m to 39m – proposed '2P, 6am-6pm' restriction
- from 39m eastward – retain existing parking restrictions

BTC19.078 Eve Street Wolli Creek, north of Brennans Road - Proposed No Stopping Zone along the cycle path.

Committee Recommendation

That approval be given to the installation of 'No Stopping' restrictions along the eastern kerb line of Eve Street, Wolli Creek, north of Brennans Road with:

- 'No Stopping' signage to be hung on the existing fencing
- 'No Stopping' yellow lines to be painted on the eastern edge of the road carriageway.

BTC19.079 Gladstone Street & Dunmore Street Bexley intersection - proposed 'No Stopping' zones**Committee Recommendation**

That approval be given to the provision of 'No Stopping' zones at the intersection of Gladstone Street and Dunmore Street North, Bexley, as follows:

- on the western approach of Gladstone Street, a 20m on the northern kerb line and 12m on southern kerb line.
- on the eastern approach of Gladstone Street, a 13m on the northern kerblines and 20m on the southern kerb line

BTC19.080 44 Knoll Avenue, Turrella - Proposed 6m '1/2P' Restriction for people with mobility difficulty.**Committee Recommendation**

- 1 That a 6m '1 P' restriction be provided in front of No. 44 Knoll Avenue, Turrella.
- 2 That the applicant be advised that the 1P restriction in Knoll Avenue, is for all road users to use and that the parking situation at this location be reviewed every year and in accordance with any future policy that may be implemented to address mobility parking.
- 3 That the applicant be advised that the 1P restriction zone will rely on the good will of motorists as limited resources for enforcement cannot prioritise this type of regulation.

BTC19.081 Kyeemagh Boat Ramp Reserve carpark off Mutch Ave Kyeemagh - proposed change from 'No Stopping 11pm-5am Vehicles with Boat Trailers Excepted' to 'No Stopping 9pm-5am Vehicles with Boat Trailers Excepted'**Committee Recommendation**

1. That the existing 'No Stopping 11pm-5am Vehicles with Boat Trailers Excepted' restriction throughout the carpark off Mutch Avenue, Kyeemagh be retained.
2. That grant options for improving carpark lighting be explored for future capital programs.
3. That Police Highway Patrol be requested to undertake routine patrols of the area to deter antisocial behaviour.

BTC19.082 Lachal Avenue at Annette Avenue intersection, Kogarah - proposed 3m 'No Stopping' restriction at new pedestrian pram ramp

Committee Recommendation

That approval be given to the installation of 3m 'No Stopping' restriction at a new pedestrian pram ramp in Lachal Avenue at Annette Avenue intersection, Kogarah.

BTC19.083 Magdalene Terrace east Mt Olympus Blvd Wolli Creek - Proposed 15m 'No Stopping' zone along southern kerblane near pedestrian crossing

Committee Recommendation

That approval be given to the provision of a 15m 'No Stopping' zone, which will remove two (2) parking space, to improve sight distance at the new pedestrian crossing to be constructed.

BTC19.084 Percival Street and Milsop Street intersection, Bexley - Proposed 'No Stopping' signage to reinforce the 10m statutory 'No Stopping' restrictions at the corners

Committee Recommendation

That approval be given to the installation of 'No Stopping' signs to reinforce the statutory 10m of 'No Stopping' zones at the intersection of Percival Street and Milsop Street as follows:

- a) Western kerb line of Percival Street south of Milsop Street – proposed 14m 'No Stopping' signage due to the presence of a speed hump in Percival Street
- b) Eastern kerb line of Percival Street south of Milsop Street – proposed 15m 'No Stopping' signage due to the presence of a speed hump in Percival Street
- c) Southern kerb line of Milsop Street west of Percival Street – proposed 10m 'No Stopping' signage
- d) Northern kerb line of Milsop Street west of Percival Street – proposed 12m 'No Stopping' signage due to the presence of a concrete island
- e) Southern kerb line of Milsop Street east of Percival Street – proposed 10m 'No Stopping' signage
- f) Northern kerb line of Milsop Street east of Percival Street – proposed 10m 'No Stopping' signage

BTC19.085 2 Reading Road Brighton Le Sands - proposed No Stopping' restriction at a new pedestrian pram ramp**Committee Recommendation**

That approval be given to the installation of 'No Stopping' restriction at a new pram ramp located at 2 Reading Road, Brighton Le Sands.

BTC19.086 60 Robey Street, Mascot- Proposed 6.5m extension to an existing 'No Stopping' restriction**Committee Recommendation**

That the existing 'No Stopping' restriction be extended to cover 6.5m east of the exit driveway of 60 Robey Street, Mascot, to provide a better view of oncoming traffic.

BTC19.087 46 Smith Street, Eastgardens- Proposed 10m 'Works Zone' for 24 weeks**Committee Recommendation**

That the approval be given to the installation of 10m of 'Works Zone, 7 am – 6.30 pm, Mon – Fri- and 8 am – 3.30 pm Sat' restriction fronting number 46 Smith Street, Eastgardens for the duration of 24 weeks, subject to relevant conditions.

BTC19.088 30-32 Stephen Road South of Swinbourne Street, Botany - Proposed conversion of 'No Parking' to unrestricted parking for two car lengths**Committee Recommendation**

- 1 That the existing 24m 'No Parking' restriction south of the driveway of No. 30-32 Stephen Road, Botany, be shortened to 12m to allow for 2 more parking space.
- 2 That parking situation in Stephen Road be revisited in 12-months' time after the changes to parking.

BTC19.089 Referrals from Anti-Hooning Taskforce**Committee Recommendation**

The Anti-Hooning Taskforce has not referred any matters for consideration of the Bayside Traffic Committee.

BTC19.090 Matters referred to the Bayside Traffic Committee by the Chair

Committee Recommendation

That the matters raised by the Chair be considered.

BTC19.091 General Business

Committee Recommendation

The Committee welcomes Yvonne Poon from BIKEast into the membership of the Bayside Traffic Committee.

5 General Business

Matter raised by Coordinator Traffic and Road Safety, Bayside Council.

The Committee welcomes Yvonne Poon from BIKEast into the membership of the Bayside Traffic Committee.

The Convenor closed the meeting at 10:48 am.

Attachments

Nil