

**EXTRAORDINARY MEETING OF BATHURST REGIONAL  
COUNCIL**

12 January 2022

His Worship the Mayor & Councillors

**Notice of Extraordinary Meeting of Bathurst Regional Council –  
Wednesday 19 January 2022**

I have to advise that an Extraordinary Meeting of Bathurst Regional Council will be held in the Council Chambers on Wednesday 19 January 2022 commencing at 6:00 PM.



D J Sherley  
**GENERAL MANAGER**

**MINUTES OF THE EXTRAORDINARY MEETING OF  
BATHURST REGIONAL COUNCIL  
HELD ON Wednesday 19 January 2022**

**1 RECORDING OF MEETINGS**

**2 MEETING COMMENCES**

Meeting commenced at

**MINUTE**

Meeting commenced at 6.00pm.

**Present:** Cr W Aubin, Cr K Burke (Audio Visual), Cr B Fry, Cr J Jennings (Audio Visual), Cr G Hanger, Cr M Hogan, Cr I North, Cr A Smith, Cr R Taylor

**3 PRAYER AND ACKNOWLEDGEMENT OF COUNTRY**

**4 APOLOGIES OR ATTENDANCE BY AUDIO-VISUAL LINK**

Nil

**MINUTE**

**MOVED: Cr I North SECONDED: Cr B Fry**

**RESOLVED:**

That the attendance via audio-visual link of Councillors Burke and Jennings be accepted.

## **5 DECLARATION OF INTEREST**

### **Declaration of Interest**

**MINUTE**

**RESOLUTION NUMBER: ORD2022-1**

**MOVED: Cr I North SECONDED: Cr A Smith**

**RESOLVED:**

Nil

## **6 RECEIVE AND DEAL WITH GENERAL MANAGER'S AND DIRECTORS' REPORTS**

### **6.1 GENERAL MANAGER'S REPORT**

#### **6.1.1 COUNCIL GOVERNANCE**

**File No: 11.00005**

#### **RECOMMENDATION:**

That:

- (a) The Ordinary Meeting of Council be held at 6.00 pm on the 3rd Wednesday each month, except that the December meeting will be held on the second Wednesday in December, and the January meeting will be held on the first Wednesday in February.

- (b) An Ordinary Meeting of Council be held, if required, after the Policy Committee on the first Wednesday each month.

- (c) Council establish a Policy Committee to meet monthly at 6.00 pm on the first Wednesday of each month as required, with the Charter as detailed in the report.

- (d) Council establish the following Section 355 Statutory Committees:

Audit & Risk Management Committee (ARMC), Australia Day Working Party, Bathurst Community Health Committee, Bathurst Regional Youth Council, Georges Plains Floodplain Management Sunset Committee, Bathurst Regional Positive Ageing Strategy, Rockley Mill Museum Management Committee, SBS for Bathurst Committee, Sister Cities Working Party, Sofala Floodplain Management Sunset Committee.

With charters/aims as detailed in the report.

- (e) Council establish the following Statutory Committees - other Legislation:

Consultative Committee (Staff), Health & Safety Committee (Staff), Mount Panorama Motor Racing Advisory Committee (Mount Panorama Act), NSW Rural Fire Service - Chifley Bushfire Management Committee (RFS Act), Traffic Committee (Road Transport Act).

With charters/aims as detailed in the report.

- (f) Council establish the following Project Advisory Working Parties:

Bathurst Public Art Program Committee, Bathurst Region Heritage Reference Group, Bathurst Region Natural Resource Advisory Group, Bicycle Facilities

Working Party, Councillors Meetings with Community Groups/Representatives, International Women's Day Working Group, Living Legends Working Party.

With charters/aims as detailed in the report.

- (g) Council establish the following Consortia: Bathurst 1000, Bathurst 12 Hour, Bathurst 6 Hour, Challenge Bathurst and Bathurst International.
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## **REPORT:**

Council must establish a governance structure for dealing with Council business. The proposed structure is consistent with the governance structure currently in place. The structure will ensure:

- Public participation.
- Better communication.
- Improved quality of information.
- Greater efficiency of administration
- Co-ordinated approach to the future.

## **Council Meetings:**

Commencement time and location are not directly covered in the Local Government Act 1993 or the Local Government (General) Regulation 2005. Council is allowed to set the time and location of Ordinary Council meetings. Section 365 of the Local Government Act 1993 requires council to meet at least 10 times a year, each time in a different month.

It is recommended that Council conduct its Ordinary meetings as follows:

Ordinary meetings of Council will commence at 6.00 pm, or immediately following the conclusion of Public Forum, on the third Wednesday of each month, except that the December meeting will be held on the second Wednesday in December, and the January meeting will be held on the first Wednesday in February.

If a second Ordinary Meeting of Council is required this will be held two weeks before the normal Council Meeting, except in the month of January. This Council Meeting will be at 6.00 pm or immediately following the Policy Committee (if required) and will include matters considered urgent by the Mayor, Councillors or General Manager and Reports of Officers to facilitate decision making.

Council may change the time or date of any particular meeting, by resolution at a preceding meeting, without prior notice being given.

## **Standing Orders:**

The general order of business at every Ordinary Meeting of the Council (with the exception of the Ordinary Meeting after the Policy Committee) shall be:

1. Opening of Meeting
2. Prayer

3. Acknowledgement of Country
4. Apologies and applications for leave of absence or attendance by audio-visual link by Councillors
5. Confirmation of Minutes
6. Declaration of interests
7. Mayoral Minute(s)
8. Receive and Deal with General Manager's and Directors' reports
9. Reports of Committees
10. Notices of Motion/Questions with Notice
11. Rescission Motions
12. Councillors/Delegates reports
13. Confidential matters
14. Conclusion of the Meeting

Council may, after the confirmation of the Minutes of the previous meeting, make a variation of the order of the business to accord precedence to any matter set down on the business paper for consideration.

The General Order of business at every Ordinary Meeting of Council following the Policy Committee shall be:

1. Opening of Meeting
2. Prayer
3. Acknowledgement of Country
4. Apologies and applications for leave of absence or attendance by audio-visual link
5. Declaration of interests
6. Mayoral Minute
7. Receive and Deal with General Manager's and Directors' Reports
8. Confidential matters
9. Conclusion of the Meeting

Council may enter Confidential Committee of the Whole in accordance with Section 10A (2) of the Local Government Act 1993, if required at any Ordinary Meeting following Policy.

The General Order of Business at each Policy Committee shall be:

1. Opening of Meeting
2. Prayer
3. Acknowledgement of Country
4. Apologies
5. Confirmation of Minutes
6. Declaration of Interests
7. Mayoral Minute (if any)
8. Receive and Deal with General Manager's and Director's Reports (if any)
9. General Business
10. Submission Hearing
11. Conclusion of the Meeting

Council may enter Confidential Committee in accordance with Section 10A (2) of the Local Government Act 1993, if required at any Policy Committee meeting.

### **Delegates/Duty Delegates:**

Councillor Delegates/Duty Delegates provide a valuable liaison with community

organisations.

Delegates and Duty Delegates will need to be appointed to the following organisations.

**Delegates:**

Delegates are Council representatives appointed by Council to a specific organisation or Committee. Delegates would normally attend most meetings of the committee and may or may not have voting rights.

Arts OutWest

Australian Airport Owners Association NSW Division

Australian Local Government Association National General Assembly

Australian Local Government National Local Roads Congress

Australian Local Government Women's Association

Bathurst Airport Users Group

Bathurst Business Chamber

Bathurst Community Climate Action Network Inc

Bathurst Correctional Complex Community Consultative Committee

Bathurst District Historical Society

Bathurst District Sport & Recreation Council

Bathurst Liquor Accord

Bathurst Neighbourhood Centre (BNC)

Bathurst Regional Community Safety Committee

Bathurst Regional Local Emergency Management Committee

Bathurst Town Square Working Party

CNSWJO

Chifley Dam Catchment Steering Committee

Chifley Local Area Command - Community Safety Precinct Committee

ClubGRANTS Committee

Country Mayors Association

Eglington Hall & Park Committee

Floodplain Management Authority

Friends of Bathurst War Memorial Carillon

Greening Bathurst

NSW Inland Forum - RCNSW

NSW Rural Fire Service - Chifley Zone Liaison Committee & Senior Management Team  
(if required)

Perthville Development Group Inc (School of Arts)

Public Libraries Association NSW

Rail Action Bathurst

Skillset

Somerville Collection Board of Directors

Upper Macquarie County Council

Western Regional Planning Panel (WRPP)

**Duty Delegates:**

Duty Delegates provide a community organisation with a direct Council contact on a needs basis. This enables organisations to function in their existing format with Councillors attending meetings only for Council related matters.

Bathurst Agricultural, Horticultural & Pastoral Association Inc

Bathurst & District Bicycle User Group (BUGS)

Bathurst City & RSL Concert Band

Bathurst Community Interagency Group

Bathurst Domestic Violence Liaison Committee

Bathurst Education Advancement Group (BEAG)  
Bathurst Family History Group  
Bathurst Health Council  
Bathurst Meals on Wheels Service Inc  
Bathurst Refugee Support Group  
Bathurst Regional Access Committee (BRAC)  
Bathurst Regional Art Gallery Society (BRAGS)  
Bathurst Senior Citizens Management Committee  
Bathurst Seymour Centre Inc  
Boundary Road Nature Reserve Landcare Group  
Central West Women's Health Centre  
Combined Pensioners & Superannuants Association  
Evans Arts Council  
Great Western Walk Implementation Committee  
Hill End & District Volunteer Bush Fire Brigade (formally Hill End & Tambaroora Progress Association)  
National Trust of Australia - Bathurst Branch (& Cox's Road Steering Committee)  
NSW State Emergency Service - Bathurst Unit  
The Australian Milling Museum (Bathurst)  
Wattle Flat Heritage Lands Trust  
Wattle Flat (Bronze Thong) Racecourse Committee  
Western Sydney University Advisory Group  
White Rock Progress Association

#### **Statutory Committees Section 355:**

Council currently has in place the following Section 355 Committees.

Audit & Risk Management Committee (ARMC)  
Australia Day Working Party  
Bathurst Community Health Committee  
Bathurst Regional Youth Council  
Georges Plains Floodplain Management Sunset Committee  
Policy Committee  
Bathurst Regional Positive Ageing Strategy  
Rockley Mill Museum Management Committee  
SBS for Bathurst Committee  
Sister Cities Working Party  
Sofala Floodplain Management Sunset Committee

#### **Statutory Committees Other Legislation:**

Council currently has in place the following other legislation committees.

Consultative Committee (staff) - (Local Government (State) Award)  
Health & Safety Committee (staff) - (Work Health & Safety Act 2011 and Regulations 2017)  
Mount Panorama Motor Racing Advisory Committee (Mount Panorama Motor Racing Act 1989)  
NSW Rural Fire Service - Chifley Bushfire Management Committee (Rural Fires Act 1997)  
Traffic Committee (Road Transport (Safety & Traffic Management) Act 1999)

#### **Project and Advisory Committees:**



In addition the following Project and Advisory Committees are in place.

Bathurst Public Art Program Committee  
Bathurst Region Heritage Reference Group  
Bathurst Region Natural Resource Advisory Group  
Bicycle Facilities Working Party  
Councillors Meeting with Community Groups/Representatives  
International Women's Day Working Group  
Living Legends Working Party

### **Consortia**

Bathurst 1000 (October)  
Bathurst 12 Hour (February)  
Bathurst 6 Hour (Easter)  
Challenge Bathurst (November)  
Bathurst International (November/December)

It is recommended that Council confirm the establishment of the above Statutory Committees – Section 355, Statutory Committees Other Legislation, Project & Advisory Committees and Consortia.

## **CHARTERS/AIMS OF COMMITTEES/WORKING PARTIES**

### **Charters of Statutory Committees Section 355**

#### **Audit and Risk Management Committee**

To assist the Council to discharge its responsibilities including, but not limited to:

- (a) Management and internal controls.
- (b) Monitoring the integrity of the Council's financial reporting practices and finance and accounting compliance.
- (c) Reviewing internal controls, key corporate risks and all audit related matters.

#### **Australia Day Working Party**

To facilitate community involvement in the celebration of Australia Day.

#### **Bathurst Community Health Committee**

To make representations on behalf of the community, with respect to health services provided in the Bathurst Region. This includes working in partnership with others to promote and improve the health of the community.

#### **Bathurst Regional Youth Council**

To voice the opinions and concerns of young people in the Bathurst Region to the Council, State and Commonwealth Governments and the wider community.

To work with other youth agencies to develop and promote activities for and social interaction between the young people of the Region.

To raise awareness of health, well-being and safety issues that affect the young people of the Region.

To work with other youth agencies to improve co-ordination and consultation between youth services.

To develop a sense of citizenship in the young people of the Region by developing an appreciation of local, state and commonwealth government processes and through involvement in community projects.

#### **Georges Plains Floodplain Management Sunset Committee**

To assist the Council in an advisory capacity in the development of a floodplain risk management plan (and implementation strategy) for the village of Georges Plains.

#### **Policy Committee**

To consider development of the Community Strategic Plan (CSP) and various policies and sub-plans of the Council. Until a new CSP is adopted, the Policy Committee will have regard to the Bathurst 2040 Community Strategic Plan. This is through the six key objectives which help Council to achieve the communities desired future:

- \* Our sense of place and identity
- \* A smart & vibrant economy
- \* Environmental stewardship
- \* Enabling sustainable growth
- \* Community health, safety and well being
- \* Community leadership and collaboration

These objectives are supported by more specific strategies, with the CSP describing what will be done to achieve them and how success is going to be measured.

To consider submissions for Development Applications which are referred by the Director Environmental, Planning & Building Services, where there are unresolved objections.

#### **Bathurst Regional Positive Ageing Strategy Committee**

To proactively prepare the Bathurst Region for an ageing population, in partnership with key stakeholders within the Bathurst LGA.

To work to address the impact of an ageing population on economic growth, infrastructure and services and to provide increased opportunities for older people to be actively engaged and included in the community.

The priority areas of the Positive Ageing Strategy Committee are:

- Living in Age Friendly Environments;
- Participating in Inclusive Communities;
- Staying Safe, Active and Healthy; and
- Being Resilient and Informed.

#### **Rockley Mill Museum Management Committee**

To facilitate the running and maintenance of the Rockley Mill Museum.

#### **SBS for Bathurst Committee**

Facilitate the introduction of SBS Multicultural Radio to Bathurst

Co-ordinate the use of the existing SBS TV facility at Mount Panorama for its re-transmission of SBS Radio Programme.

#### **Sister Cities Working Party**

(a) To oversee itinerary and visits of Sister Cities including, Ohkuma, Cirencester et al.

- (b) Assist with hosting of, funding and sponsorship.
- (c) Explore methods of funding and sponsorship for return visits to Ohkuma, Cirencester et al.
- (d) Examine marketing opportunities relating to Sister City relationships.
- (e) Develop cultural and technical exchanges.
- (f) Collect and disseminate information and ideas.
- (g) Liaise with schools, TAFE and Charles Sturt University on exchange of students and programs.
- (h) Identify areas of future development for the Sister City relationships.
- (i) Develop sporting, music and cultural links.

### **Sofala Floodplain Management Sunset Committee**

To assist the Council, in an advisory capacity, in the development of a floodplain risk management plan (and implementation strategy) for the village of Sofala.

### **Charters of Statutory Committees Other Legislation:**

#### **Consultative Committee (Local Government (State) Award**

The Staff Consultative Committee:

- Provide a forum for consultation between the General Manager and employees,
- Positively cooperate in workplace reform to enhance the efficiency and productivity of Council,
- Provide employees with access to career opportunities and more fulfilling, varied and better paid work; and
- Recommend matters for determination by the General Manager.

#### **Health & Safety Committee (Work Health & Safety Act (2017)**

To establish a forum where consultation between all parties in the workplace can assist in providing a safe workplace. This is a staff committee.

This committee is established under the Work Health and Safety Act, 2011 & Regulations 2011.

The activities include:

- \* Workplace inspections, reports and evaluations
- \* Recommending WH&S training and education
- \* Safety and health promotion
- \* Emergency procedures and evacuation drills
- \* Workplace surveys and audits
- \* Consideration of reports of incidents, accidents, injuries and illnesses.
- \* Identification of unsafe and unhealthy acts and conditions.
- \* Provision of relevant WH&S information to employees.
- \* Involvement in effective workplace planning, design and operation.
- \* Review proposed changes to work systems.

### **Mount Panorama Motor Racing Advisory Committee (Mount Panorama Motor Racing Act 1989)**

The Committee is constituted under the Mount Panorama Motor Racing Act 1989 to carry out the functions contained therein:

- (a) To advise the Minister on the conduct of meetings for motor racing permitted by this Act
- (b) At the request of the Minister, to advise the Minister on other matters in connection with this Act.

### **NSW Rural Fire Service - Chifley Bushfire Management Committee (Rural Fires Act 1997)**

BFMCs provide a forum for cooperative interaction between organisations, agencies and the community that leads to effective, coordinated bush fire management throughout the area and land adjoining. They ensure that bush fire management is adequately assessed and designed for holistic protection of the community.

- To prepare for the rural fire district a plan of operations (which sets out procedures to be followed if a bush fire breaks out).
- To prepare for the rural fire district a bush fire risk management plan (which sets out schemes for the reduction of bush fire hazards).

### **Traffic Committee (Road Transport Act 2013)**

To act in accordance with authority delegated by Transport for NSW to:

- (a) Preserve and enhance the efficient flow of traffic, while meeting as far as practicable the demands for access, manoeuvres, parking etc.
- (b) Reduce hazards and accident potential for all road users.
- (c) Reduce any adverse impacts of traffic on the surrounding environment.

### **Charters of Project & Advisory Committees:**

#### **Bathurst Public Art Program Committee**

To provide a forum for the development and delivery of a strategically planned and innovative public art program for the Bathurst Region.

#### **Bathurst Region Heritage Reference Group**

To provide a forum for constructive dialogue between the community and Council in regard to heritage protection, enhancement, promotion and management in the Region, specifically:

- The prioritisation and implementation of activities, programs and projects under the Bathurst Region Heritage Plan, including community based activities;
- Annual review of the Bathurst Region Heritage Plan and its implementation to ensure its vision is achieved;
- The annual reporting of achievements (Council and community) and other outcomes under the Bathurst Region Heritage Plan;
- A major review of the Bathurst Region Heritage Plan during each term of Council.

Membership of the Heritage Reference Group is by registration of interest to create an

email notification group and invitation list for Council activities.

Council will engage with members of the Heritage Reference Group by:

- A dedicated Yoursay project page on Council's website that will host the Bathurst Region Heritage Plan and its accompanying Implementation Plan, the latter updated quarterly. HRG members can also update their activities this way.
- An annual conference to workshop priority topics of the Bathurst Region Heritage Plan, with other workshops called on an as-needed basis and to capitalise on training opportunities.
- Direct engagement by Council staff with community groups.
- An annual report provided to Council and NSW heritage.

### **Bathurst Region Natural Resource Advisory Group**

The aim of the Bathurst Region Natural Resource Advisory Group Meetings is:

- a) To provide an opportunity to receive and discuss written and verbal reports from Council on the progress of the Bathurst Vegetation Management Plan, the Bathurst Urban Waterways Management Plan and the Bathurst Biodiversity Management Plan implementation.
- b) To provide an opportunity for representatives from member groups to report on activities and projects being undertaken by their members.
- c) To formulate recommendations to Council by way of discussion and consensus.
- d) To review the list of highest ranked projects on an annual basis.

### **Bicycle Facilities Working Party**

- To advise Council on priorities for funding of bicycle facilities, especially for the purposes of formulating Council's Delivery Program and Operational Plan.
- To provide advice to Council on the needs of bicycle users.
- To provide a forum for discussion of bicycle issues.
- To provide a co-ordinating mechanism for major bicycle events.

### **Councillors Meetings with Community Groups/Representatives**

The key element of the Councillors Meetings with Community Groups/Representatives is to improve the quality and quantity of information available to the public and to the Council in their decision making process. The "Councillors Meetings with Community Groups/Representatives" are informal, by appointment, and on a scheduled basis to maximise opportunities for organisations and members of the public to raise issues with Council.

In addition, the sessions also allow invitations to be extended to specific community groups and others currently not involved with Council to ensure Council has an updated, accurate and focused position on all facets of the community.

The issues to be discussed are of community interest with individual concerns, for example a ratepayer's excess water charges being a matter to be addressed at the General Manager level followed by a report to Council if required.

### **International Women's Day Working Group**

To facilitate appropriate celebrations of International Women's Day.

### **Living Legends Working Party**

Council as part of the 2015 Bicentenary Celebrations created the Living Legends walk. To preserve the prestige of the title, 'Bathurst Living Legend', Council determined that a

number of names are to be added to the avenue of trees annually, this would generally be around six names. The new Living Legends are to be announced as part of the Proclamation Day Ceremony annually.

## **FINANCIAL IMPLICATIONS:**

Governance costs are covered within existing budgets.

## **BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**

### **Objective 6: Community leadership and collaboration.**

- Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region.
- Strategy 6.2 Work with our partners and neighbouring councils to share skills, knowledge and resources and find ways to deliver services more efficiently.
- Strategy 6.3 Advocate for our community.
- Strategy 6.4 Meet legislative and compliance requirements.
- Strategy 6.5 Be open and fair in our decisions and our dealings with people.
- Strategy 6.6 Manage our money and our assets to be sustainable now and into the future.
- Strategy 6.7 Invest in our people.
- Strategy 6.8 Implement opportunities for organisational improvement.

## **COMMUNITY ENGAGEMENT:**

04 **Collaborate** - to partner with the public in each aspect of the decision making including the development of alternatives and identification of preferred solutions

## **ATTACHMENTS:**

Nil

## **MINUTE**

**RESOLUTION NUMBER: ORD2022-2**

**MOVED: Cr B Fry SECONDED: Cr A Smith**

## **RESOLVED:**

That:

- (a) The Ordinary Meeting of Council be held at 6.00 pm on the 3rd Wednesday each month, except that the December meeting will be held on the second Wednesday in December, and the January meeting will be held on the first Wednesday in February.

(b) An Ordinary Meeting of Council be held, if required, after the Policy Committee on the first Wednesday each month.

(c) Council establish a Policy Committee to meet monthly at 6.00 pm on the first Wednesday of each month as required, with the Charter as detailed in the report.

(d) Council establish the following Section 355 Statutory Committees:

Audit & Risk Management Committee (ARMC), Australia Day Working Party, Bathurst Community Health Committee, Bathurst Regional Youth Council, Georges Plains Floodplain Management Sunset Committee, Bathurst Regional Positive Ageing Strategy, Rockley Mill Museum Management Committee, SBS for Bathurst Committee, Sister Cities Working Party, Sofala Floodplain Management Sunset Committee.

With charters/aims as detailed in the report.

(e) Council establish the following Statutory Committees - other Legislation:

Consultative Committee (Staff), Health & Safety Committee (Staff), Mount Panorama Motor Racing Advisory Committee (Mount Panorama Act), NSW Rural Fire Service - Chifley Bushfire Management Committee (RFS Act), Traffic Committee (Road Transport Act).

With charters/aims as detailed in the report.

(f) Council establish the following Project Advisory Working Parties:

Bathurst Public Art Program Committee, Bathurst Region Heritage Reference Group, Bathurst Region Natural Resource Advisory Group, Bicycle Facilities Working Party, Councillors Meetings with Community Groups/Representatives, International Women's Day Working Group, Living Legends Working Party.

With charters/aims as detailed in the report.

(g) Council establish the following Consortia: Bathurst 1000, Bathurst 12 Hour, Bathurst 6 Hour, Challenge Bathurst and Bathurst International.

## 6.1.2 APPOINTMENT OF DELEGATES AND DUTY DELEGATES

**File No: 11.00005**

### RECOMMENDATION:

That Council appoint Delegates and Duty Delegates and approve attendance at, and associated costs for related conferences, seminars, etc as required.

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### REPORT:

Council is currently represented on the organisations as listed.

Generally, delegates attend meetings subject to arrangements put in place with the Organisation/Committee and may not have voting rights.

Duty Delegates are a point of contact for community groups, with Council representatives expected to attend meetings only when Council issues arise.

**The Mayor is** Council's delegate on the Australian Local Government Association National General Assembly, Australian Local Government National Local Roads Congress, Bathurst Business Chamber, Bathurst Education Advancement Group, Bathurst Town Square Working Party, Central NSW Joint Organisation of Councils (CNSWJO), Chifley Local Area Command – Community Safety Precinct Committee, Country Mayors Association, Bathurst Regional Local Emergency Management Committee, NSW Inland Forum (RCNSW), Skillset, Somerville Collection Board of Directors.

**Delegates** (appointed during the previous term of Council)

Organisation/Committee	Meeting Frequency	Number of Delegates	Delegates	Alternate Delegates	File Number
ARTS OUTWEST	Twice yearly	1	Monica Morse		18.00036
AUSTRALIAN AIRPORT OWNERS ASSOC - NSW DIVISION	Twice yearly + Conference	2	Ian North, Bobby Bourke		07.00002
AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION NATIONAL GENERAL ASSEMBLY	Annual Conference	1	Mayor	Deputy Mayor	18.00008



AUSTRALIAN LOCAL GOVERNMENT NATIONAL LOCAL ROADS CONGRESS	Annual Conference	1	Mayor		18.00008
AUSTRALIAN LOCAL GOVERNMENT WOMEN'S ASSOCIATION	Annual Conferences (2)	2	Monica Morse, Jacqui Rudge		18.00008
BATHURST AIRPORT USERS GROUP	3 times a year	2	Warren Aubin, Ian North		07.00063
BATHURST BUSINESS CHAMBER	Monthly	1	Mayor	Deputy Mayor, Monica Morse	18.00027
BATHURST COMMUNITY CLIMATE ACTION NETWORK INC	Monthly	2	John Fry	Ian North	18.00251
BATHURST CORRECTIONAL COMPLEX COMMUNITY CONSULTATIVE COMMITTEE	Quarterly	1	Bobby Bourke	Warren Aubin	07.00050
BATHURST DISTRICT HISTORICAL SOCIETY	Monthly	1	Graeme Hanger	Monica Morse	18.00183
BATHURST DISTRICT SPORT & RECREATION COUNCIL	Monthly	2	Alex Christian, Ian North		18.00021
BATHURST LIQUOR ACCORD	Quarterly	1	Ian North		07.00036
BATHURST NEIGHBOURHOOD CENTRE (BNC)	Monthly	1	Graeme Hanger		18.00017
BATHURST REGIONAL COMMUNITY SAFETY COMMITTEE	Quarterly	2	Alex Christian, Jacqui Rudge	Ian North	07.00100
BATHURST REGIONAL LOCAL EMERGENCY MANAGEMENT COMMITTEE	Quarterly	1	Mayor		07.00018
BATHURST TOWN SQUARE WORKING PARTY	as required	1	Mayor	Monica Morse	20.00107
CENTRAL NSW JOINT ORGANISATION OF COUNCILS (CNSWJO)	Quarterly	1	Mayor	Deputy Mayor	07.00017
CHIFLEY DAM CATCHMENT STEERING COMMITTEE	Monthly	1	John Fry		07.00020
CHIFLEY LOCAL AREA COMMAND - COMMUNITY SAFETY PRECINCT COMMITTEE	Quarterly	1	Mayor		07.00055
ClubGRANTS COMMITTEE	Monthly (June-Dec)	3	Monica Morse, Ian North		09.00024
COUNTRY MAYORS ASSOCIATION	Bi Monthly	1	Mayor		18.00028
EGLINTON HALL & PARK COMMITTEE	Quarterly	1	Ian North		18.00177
FLOODPLAIN MANAGEMENT AUTHORITY	Quarterly + Conference	2	Bobby Bourke, Ian North		07.00007
FRIENDS OF BATHURST WAR MEMORIAL CARILLON		1			04.00021
GREENING BATHURST	Monthly	2	John Fry	Ian North	18.00157
NSW INLAND FORUM - RCNSW	Quarterly	1	Mayor		18.00208
NSW RURAL FIRE SERVICE - CHIFLEY ZONE LIAISON COMMITTEE, SENIOR MANAGEMENT TEAM (if required)	Quarterly	2	Alex Christian, Ian North		13.00020
PERTHVILLE DEVELOPMENT GROUP INC (School of Arts)	Monthly	1	Bobby Bourke		22.01146
PUBLIC LIBRARIES ASSOCIATION NSW	Monthly + Conferences (2), Zone meeting	3	Bobby Bourke, Monica Morse, Jacqui Rudge		18.00127
RAIL ACTION BATHURST	As Required	2	Ian North		18.00116
SKILLSET	Quarterly	1	Mayor		18.00014
SOMERVILLE COLLECTION BOARD OF DIRECTORS	Twice yearly	1	Mayor	Monica Morse	18.00186
UPPER MACQUARIE COUNTY COUNCIL (see GM Report #5)	Six weekly	2	John Fry, Ian North		18.00172

WESTERN REGIONAL PLANNING PANEL (WRPP) (see GM Report #6)	As Required	2	Mayor, David Sherley	Monica Morse	18.00274
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### Duty Delegates (appointed during the previous term of Council)

Organisation/Committee	Meeting Frequency	Number of Delegates	Delegates	Alternate Delegates	File Number
ACCESSIBLE LIVING OPTIONS	As Required	1	Monica Morse		18.00280
BATHURST AGRICULTURAL, HORTICULTURAL & PASTORAL ASSOCIATION INC	As Required	1	Monica Morse		18.00108
BATHURST AND DISTRICT BICYCLE USER GROUP (BUGS)	As Required	1	Ian North		28.00003
BATHURST CITY & RSL CONCERT BAND	As Required	1	Monica Morse		22.00556
BATHURST COMMUNITY INTERAGENCY GROUP	As Required	1	Bobby Bourke	Graeme Hanger	18.00117
BATHURST DOMESTIC VIOLENCE LIAISON COMMITTEE	As Required	1	Jacqui Rudge		07.00109
BATHURST EDUCATION ADVANCEMENT GROUP (BEAG)	Twice yearly	1	Mayor		18.00053
BATHURST FAMILY HISTORY GROUP	As Required	1	Jacqui Rudge		18.00326
BATHURST HEALTH COUNCIL	As Required	1	Mayor		
BATHURST MEALS ON WHEELS SERVICE INC	Monthly	1	Monica Morse		18.00236
BATHURST REFUGEE SUPPORT GROUP	As Required	1	Bobby Bourke		23.00057
BATHURST REGIONAL ACCESS COMMITTEE (BRAC)	Monthly	1	Ian North		07.00031
BATHURST REGIONAL ART GALLERY SOCIETY (BRAGS)	As Required	1	Jess Jennings, Jacqui Rudge		07.00027
BATHURST SENIOR CITIZENS MANAGEMENT COMMITTEE	As Required	1	Bobby Bourke	Monica Morse	22.00219
BATHURST SEYMOUR CENTRE INC	As Required	1	Bobby Bourke	Monica Morse	22.00185
BOUNDARY ROAD NATURE RESERVE LANDCARE GROUP	As Required	2	John Fry	Graeme Hanger	04.00031
CENTRAL WEST WOMEN'S HEALTH CENTRE	As Required	2	Monica Morse, Jacqui Rudge		18.00156
COMBINED PENSIONERS & SUPERANNUANTS ASSOCIATION	As Required	1	Graeme Hanger		18.00116
EVANS ARTS COUNCIL	As Required	1	Monica Morse		18.00213
GREAT WESTERN WALK IMPLEMENTATION COMMITTEE	Quarterly	2			20.00020
HILL END & DISTRICT VOLUNTEER BUSH FIRE BRIGADE (formerly HILL END & TAMBAROORA PROGRESS ASSOCIATION)	As Required	2	Monica Morse, John Fry		18.00217

NATIONAL TRUST OF AUSTRALIA - BATHURST & DISTRICT BRANCH (& COX'S ROAD PROJECT COMMITTEE)	As Required	1	Jacqui Rudge		18.00191
NSW STATE EMERGENCY SERVICE - BATHURST UNIT	as required	1	Ian North		18.00043
THE AUSTRALIAN MILLING MUSEUM (BATHURST)	As Required	1	Jacqui Rudge		22.01124
WATTLE FLAT HERITAGE LANDS TRUST	As Required	1	Warren Aubin		18.00214
WATTLE FLAT (BRONZE THONG) RACECOURSE COMMITTEE	As Required	1	Warren Aubin		23.00114
WESTERN SYDNEY UNIVERSITY ADVISORY GROUP	As Required	2	Monica Morse		18.00327
WHITE ROCK PROGRESS ASSOCIATION	As Required	1	Ian North		28.00280

## FINANCIAL IMPLICATIONS:

Funding for this item is contained within existing budgets

## BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

### Objective 6: Community leadership and collaboration.

- Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region.
- Strategy 6.2 Work with our partners and neighbouring councils to share skills, knowledge and resources and find ways to deliver services more efficiently.
- Strategy 6.3 Advocate for our community.
- Strategy 6.4 Meet legislative and compliance requirements.
- Strategy 6.5 Be open and fair in our decisions and our dealings with people.
- Strategy 6.6 Manage our money and our assets to be sustainable now and into the future.
- Strategy 6.7 Invest in our people.
- Strategy 6.8 Implement opportunities for organisational improvement.

## COMMUNITY ENGAGEMENT:

04 **Collaborate** - to partner with the public in each aspect of the decision making including the development of alternatives and identification of preferred solutions

## ATTACHMENTS:

Nil

## MINUTE

**RESOLUTION NUMBER: ORD2022-3**

**MOVED: Cr B Fry SECONDED: Cr G Hanger**

**RESOLVED:**

That Council appoint Delegates and Duty Delegates and approve attendance at, and associated costs for related conferences, seminars, etc as required.

### Delegates & Council Committees

Organisation/Committee	Meeting Frequency	Number of Delegates	Delegates	Alternate Delegates	File Number
ARTS OUTWEST	Twice yearly	1	Margaret Hogan		18.00036
AUSTRALIAN AIRPORT OWNERS ASSOC - NSW DIVISION	Twice yearly + Conference	2	Ian North, Ben Fry		07.00002
AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION NATIONAL GENERAL ASSEMBLY	Annual Conference	1	Mayor	Deputy Mayor	18.00008
AUSTRALIAN LOCAL GOVERNMENT NATIONAL LOCAL ROADS CONGRESS	Annual Conference	1	Mayor		18.00008
AUSTRALIAN LOCAL GOVERNMENT WOMEN'S ASSOCIATION	Annual Conferences (2)	2	Kirralee Burke, Margaret Hogan		18.00008
BATHURST AIRPORT USERS GROUP	3 times a year	2	Warren Aubin, Ian North		07.00063
BATHURST BUSINESS CHAMBER	Monthly	1	Mayor	Deputy Mayor	18.00027
BATHURST COMMUNITY CLIMATE ACTION NETWORK INC	Monthly	2	Kirralee Burke Margaret Hogan		18.00251
BATHURST CORRECTIONAL COMPLEX COMMUNITY CONSULTATIVE COMMITTEE	Quarterly	1	Warren Aubin	Graeme Hanger	07.00050
BATHURST DISTRICT HISTORICAL SOCIETY	Monthly	1	Graeme Hanger		18.00183
BATHURST DISTRICT SPORT & RECREATION COUNCIL	Monthly	2	Graeme Hanger, Kirralee Burke	Ben Fry	18.00021
BATHURST LIQUOR ACCORD	Quarterly	1	Andrew Smith	Ian North	07.00036
BATHURST NEIGHBOURHOOD CENTRE (BNC)	Monthly	1	Margaret Hogan	Kirralee Burke	18.00017
BATHURST REGIONAL COMMUNITY SAFETY COMMITTEE	Quarterly	2	Ben Fry, Robert Taylor		07.00100
BATHURST REGIONAL LOCAL EMERGENCY MANAGEMENT COMMITTEE	Quarterly	1	Mayor		07.00018
BATHURST TOWN SQUARE WORKING PARTY	As Required	1	Mayor	Graeme Hanger	20.00107

CNSWJO	Quarterly	1	Mayor	Deputy Mayor	07.00017
CHIFLEY DAM CATCHMENT STEERING COMMITTEE	Monthly	1	Ben Fry		07.00020

CHIFLEY LOCAL AREA COMMAND - COMMUNITY SAFETY PRECINCT COMMITTEE	Quarterly	1	Mayor		07.00055
ClubGRANTS COMMITTEE	Monthly (June-Dec)	3	Andrew Smith, Graeme Hanger, Kirralee Burke		09.00024
COUNTRY MAYORS ASSOCIATION	Bi Monthly	1	Mayor		18.00028
EGLINTON HALL & PARK COMMITTEE	Quarterly	1	Ben Fry	Ian North	18.00177
FLOODPLAIN MANAGEMENT AUTHORITY	Quarterly + Conference	2	Ian North		07.00007
FRIENDS OF BATHURST WAR MEMORIAL CARILLON		1	Jess Jennings		04.00021
GREENING BATHURST	Monthly	2	Margaret Hogan, Kirralee Burke		18.00157
NSW INLAND FORUM - RCNSW	Quarterly	1	Mayor		18.00208
NSW RURAL FIRE SERVICE - CHIFLEY ZONE LIAISON COMMITTEE, SENIOR MANAGEMENT TEAM (if required)	Quarterly	2	Ben Fry, Ian North	Graeme Hanger	13.00020
PERTHVILLE DEVELOPMENT GROUP INC (School of Arts)	Monthly	1	Margaret Hogan		22.01146
PUBLIC LIBRARIES ASSOCIATION NSW	Monthly + Conferences (2), Zone meeting	3	Jess Jennings		18.00127
RAIL ACTION BATHURST	As Required	2	Ian North, Andrew Smith		18.00001
SKILLSET	Quarterly	1	Mayor	Graeme Hanger	18.00014
SOMERVILLE COLLECTION BOARD OF DIRECTORS	Twice yearly	1	Mayor	Graeme Hanger	18.00186
UPPER MACQUARIE COUNTY COUNCIL (see GM Report #5)	Six weekly	2			18.00172
WESTERN REGIONAL PLANNING PANEL (WRPP) (see GM Report #6)	As Required	2	Mayor, Ian North		18.00274

## Duty Delegates

Organisation/Committee	Meeting Frequency	Number of Delegates	Delegates	Alternate Delegates	File Number
BATHURST AGRICULTURAL, HORTICULTURAL & PASTORAL ASSOCIATION INC	As Required	1	Ben Fry		18.00108
BATHURST AND DISTRICT BICYCLE USER GROUP (BUGS)	As Required	1	Jess Jennings		28.00003
BATHURST CITY & RSL CONCERT BAND	As Required	1	Jess Jennings		22.00556
BATHURST COMMUNITY INTERAGENCY GROUP	As Required	1	Kirralee Burke	Graeme Hanger	18.00117
BATHURST DOMESTIC VIOLENCE LIAISON COMMITTEE	As Required	1	Kirralee Burke		07.00109

BATHURST EDUCATION ADVANCEMENT GROUP (BEAG)	Twice yearly	1	Mayor		18.00053
BATHURST FAMILY HISTORY GROUP	As Required		Graeme Hanger		18.00326
BATHURST HEALTH COUNCIL	As Required	1	Mayor	Warren Aubin	
BATHURST MEALS ON WHEELS SERVICE INC	Monthly	1	Graeme Hanger	Ian North	18.00236
BATHURST REFUGEE SUPPORT GROUP	As Required	1	Margaret Hogan	Kirrilee Burke	23.00057
BATHURST REGIONAL ACCESS COMMITTEE (BRAC)	Monthly	1	Jess Jennings	Kirrilee Burke	07.00031
BATHURST REGIONAL ART GALLERY SOCIETY (BRAGS)	As Required	1	Margaret Hogan		07.00027
BATHURST SENIOR CITIZENS MANAGEMENT COMMITTEE	As Required	1	Graeme Hanger		22.00219
BATHURST SEYMOUR CENTRE INC	As Required	1	Graeme Hanger		22.00185
BOUNDARY ROAD NATURE RESERVE LANDCARE GROUP	As Required	2	Margaret Hogan, Graeme Hanger		04.00031
CENTRAL WEST WOMEN'S HEALTH CENTRE	As Required	2	Margaret Hogan, Kirrilee Burke		18.00156
COMBINED PENSIONERS & SUPERANNUANTS ASSOCIATION	As Required	1	Robert Taylor		18.00116

EVANS ARTS COUNCIL	As Required	1	Margaret Hogan		18.00213
GREAT WESTERN WALK IMPLEMENTATION COMMITTEE	Quarterly	2	Margaret Hogan		20.00020
HILL END & DISTRICT VOLUNTEER BUSH FIRE BRIGADE (formerly HILL END & TAMBAROORA PROGRESS ASSOCIATION)	As Required	2	Margaret Hogan	Ben Fry	18.00217
NATIONAL TRUST OF AUSTRALIA - BATHURST & DISTRICT BRANCH (& COX'S ROAD PROJECT COMMITTEE)	As Required	1	Graeme Hanger		18.00191
NSW STATE EMERGENCY SERVICE - BATHURST UNIT	As Required	1	Ian North		18.00043
THE AUSTRALIAN MILLING MUSEUM (BATHURST)	As Required	1	Ben Fry		22.01124
WATTLE FLAT HERITAGE LANDS TRUST	As Required	1	Warren Aubin		18.00214
WATTLE FLAT (BRONZE THONG) RACECOURSE COMMITTEE	As Required	1	Warren Aubin		23.00114
WESTERN SYDNEY UNIVERSITY ADVISORY GROUP	As Required	2	Warren Aubin, Graeme Hanger		18.00327
WHITE ROCK PROGRESS ASSOCIATION	As Required	1	Ben Fry		28.00280

### 6.1.3 APPOINTMENT TO STATUTORY COMMITTEES, ADVISORY COMMITTEES AND CONSORTIA

File No: 11.00005

#### RECOMMENDATION:

That Council:

- a) Appoint the Councillor representative(s) to Statutory Committees, Project and Advisory Committees and Consortiums
- b) Appoint citizen representatives to committees/working parties
- c) Approve attendance at meetings and conferences, including associated costs, by nominated Councillors

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#### REPORT:

Council may appoint or elect such committees as it considers necessary. Council has the following Statutory Committees, Project and Advisory Committees and Consortium memberships.

The Mayor is, by default, the Chairperson of all Committees. Further, the Mayor is a Council delegate on Bathurst Community Health Committee, Audit & Risk Management Committee (ARMC), and SBS for Bathurst Committee.

#### STATUTORY COMMITTEES

Section 355 LGA (Delegates appointed during the previous term of Council)

Organisation/Committee	Meeting Frequency	Number of Delegates	Delegates	Alternate Delegates	Other Members	File Number
AUDIT AND RISK MANAGEMENT COMMITTEE (ARMC) (see GM Report #4)	Quarterly	2	Mayor , Deputy Mayor	Ian North, Jacqui Rudge	Bathurst Regional Council, Independent external members	07.00125
AUSTRALIA DAY WORKING PARTY	As Required	3	Alex Christian, Ian North		Bathurst Regional Council, Community Representatives	23.00033

BATHURST COMMUNITY HEALTH COMMITTEE	As Required	1	Mayor	Deputy Mayor	Bathurst Regional Council, Independent External Members	18.00035
BATHURST REGIONAL YOUTH COUNCIL	Bi Monthly	4	Warren Aubin, Alex Christian		secondary school - TAFE & community youth group representatives	11.00020
GEORGES PLAINS FLOODPLAIN MANAGEMENT SUNSET COMMITTEE	As Required	1	Bobby Bourke		community representatives	07.00076
POLICY COMMITTEE	Monthly	9	All Councillors		Bathurst Regional Council	07.00064
BATHURST REGIONAL POSITIVE AGEING STRATEGY COMMITTEE	To be determined					
ROCKLEY MILL MUSEUM MANAGEMENT COMMITTEE	As Required	1	Ian North		community representatives	07.00075
SBS FOR BATHURST COMMITTEE	As Required	1	Mayor		Bathurst Regional Council, community representatives	08.00009
SISTER CITIES WORKING PARTY	Bi Monthly + Conference	4	Ian North, Bobby Bourke, Monica Morse, Alex Christian		Bathurst Regional Council, community representatives	23.00011
SOFALA FLOODPLAIN MANAGEMENT SUNSET COMMITTEE	As Required	1	Bobby Bourke	John Fry	community representatives	07.00076

**Statutory Committee – Other Legislation** (Delegates appointed during the previous term of Council)

Organisation/Committee	Meeting Frequency	Number of Delegates	Delegates	Alternate Delegates	Other Members	File Number
CONSULTATIVE COMMITTEE (staff) (Local Government (State) Award)	Bi Monthly	0	Nil		Staff only	07.00026



HEALTH & SAFETY COMMITTEE (staff) (Work Health & Safety Act 2011 and Regulations 2017)	Bi Monthly	0	Nil		Staff only	07.00048
MOUNT PANORAMA MOTOR RACING ADVISORY COMMITTEE (Mount Panorama Motor Racing Act 1989)	As Required	1	Mayor		Bathurst Regional Council, Motorsport Australia, NSW Office of Sport, NSW Police - Chifley Command,	04.00001
NSW RURAL FIRE SERVICE - CHIFLEY BUSHFIRE MANAGEMENT COMMITTEE (Rural Fires Act 1997)	Twice yearly	2	Ian North, Alex Christian		Bathurst Regional Council, Oberon Council, various state government departments	13.00020
TRAFFIC COMMITTEE (Road Transport Act 2013)	Monthly	1	Warren Aubin	Ian North	Bathurst Regional Council, NSW Police, Transport for NSW, State Member Representative	07.00006

**Project and Advisory Committees** (Delegates appointed during the previous term of Council)

Organisation/Committee	Meeting Frequency	Number of Delegates	Delegates	Alternate Delegates	Other Members	File Number
BATHURST PUBLIC ART PROGRAM COMMITTEE	As Required	1	Jacqui Rudge			11.00040
BATHURST REGION HERITAGE REFERENCE GROUP	As Required	9	All Councillors		Bathurst Regional Council	20.00123
BATHURST REGION NATURAL RESOURCE ADVISORY GROUP	As Required	1	Mayor	John Fry, Monica Morse	Bathurst Regional Council, community representatives	13.00001
BICYCLE FACILITIES WORKING PARTY	As Required	2	Ian North		bicycle user group representatives, Bathurst Regional Council	20.00117
COUNCILLORS MEETINGS WITH COMMUNITY GROUPS/REPRESENTATIVES	monthly	9	All Councillors		Bathurst Regional Council, By invitation	11.00019
INTERNATIONAL WOMEN'S DAY WORKING GROUP		1	Monica Morse, Jacqui Rudge			23.00026
LIVING LEGENDS WORKING PARTY	bi-annually	2	Mayor	Deputy Mayor		20.00282

## Consortia (Delegates appointed during the previous term of Council)

Organisation/Committee	Meeting Frequency	Number of Delegates	Delegates	Alternate Delegates	File Number
BATHURST 1000 (October)	As Required	3	Ian North, Warren Aubin, Jacqui Rudge		04.00001
BATHURST 12 HOUR (February)	Six monthly, includes costs	2	Warren Aubin, Ian North		04.00097
BATHURST 6 HOUR (Easter)	Six monthly, includes costs	2	Warren Aubin, Ian North		04.00125
Challenge Bathurst (November)	Six monthly, includes costs	2	Warren Aubin, Ian North		04.00136
Bathurst International (November/December)	Six monthly, includes costs	2	Warren Aubin, Ian North		04.00148

Council should note that appointment to the relevant statutory committees, project advisory committees and consortia includes approval for attendance at meetings but not attendance at annual conferences nor accommodation, unless otherwise indicated in the meeting frequency column.

## FINANCIAL IMPLICATIONS:

Funding for this item is contained within existing budgets

## BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

### Objective 6: Community leadership and collaboration.

- Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region.
- Strategy 6.2 Work with our partners and neighbouring councils to share skills, knowledge and resources and find ways to deliver services more efficiently.
- Strategy 6.3 Advocate for our community.
- Strategy 6.4 Meet legislative and compliance requirements.
- Strategy 6.5 Be open and fair in our decisions and our dealings with people.
- Strategy 6.6 Manage our money and our assets to be sustainable now and into the future.
- Strategy 6.7 Invest in our people.
- Strategy 6.8 Implement opportunities for organisational improvement.

## COMMUNITY ENGAGEMENT:

04 **Collaborate** - to partner with the public in each aspect of the decision making including the development of alternatives and identification of preferred solutions

## ATTACHMENTS:

Nil

## MINUTE

**RESOLUTION NUMBER: ORD2022-4**

**MOVED: Cr G Hanger SECONDED: Cr M Hogan**

### RESOLVED:

That Council:

- a) Appoint the Councillor representative(s) to Statutory Committees, Project and Advisory Committees and Consortiums
- b) Appoint citizen representatives to committees/working parties
- c) Approve attendance at meetings and conferences, including associated costs, by nominated Councillors

### Statutory Committee - S:355 LGA

Organisation/Committee	Meeting Frequency	Number of Delegates	Delegates	Alternate Delegates	Other Members	File Number
AUDIT AND RISK MANAGEMENT COMMITTEE (ARMC) <i>(see GM Report #4)</i>	Quarterly	2	Mayor, Deputy Mayor	Ian North	Bathurst Regional Council, Independent external members	07.00125
AUSTRALIA DAY WORKING PARTY	As Required	3	Graeme Hanger, Ian North, Margaret Hogan		Bathurst Regional Council, Community Representatives	23.00033
BATHURST COMMUNITY HEALTH COMMITTEE	As Required	1	Mayor	Deputy Mayor	Bathurst Regional Council, Independent External Members	18.00035
BATHURST REGIONAL YOUTH COUNCIL	Bi Monthly	4	Warren Aubin, Kirralee Burke, Ben Fry, Margaret Hogan		secondary school - TAFE & community youth group representatives	11.00020
GEORGES PLAINS FLOODPLAIN MANAGEMENT SUNSET COMMITTEE	As Required	1	Mayor		community representatives	07.00076
POLICY COMMITTEE	Monthly	9	All Councillors		Bathurst Regional Council	07.00064
BATHURST REGIONAL POSITIVE AGEING STRATEGY COMMITTEE	TBA	TBA	Robert Taylor			
ROCKLEY MILL MUSEUM MANAGEMENT COMMITTEE	As Required	1	Jess Jennings		community representatives	07.00075

SBS FOR BATHURST COMMITTEE	As Required	1	Mayor		Bathurst Regional Council, community representatives	08.00009
SISTER CITIES WORKING PARTY	Bi Monthly + Conference	4	Graeme Hanger, Kirralee Burke, Warren Aubin, Ian North		Bathurst Regional Council, community representatives	23.00011
SOFALA FLOODPLAIN MANAGEMENT SUNSET COMMITTEE	As Required	1	Mayor		community representatives	07.00076

### Statutory Committee - Other Legislation's

Organisation/Committee	Meeting Frequency	Number of Delegates	Delegates	Alternate Delegates	Other Members	File Number
CONSULTATIVE COMMITTEE (staff) (Local Government (State) Award)	Bi Monthly	0	Nil	Nil	Staff only	07.00026
HEALTH & SAFETY COMMITTEE (staff) (Work Health & Safety Act 2011 and Regulations 2017)	Bi Monthly	0	Nil	Nil	Staff only	07.00048
MOUNT PANORAMA MOTOR RACING ADVISORY COMMITTEE (Mount Panorama Motor Racing Act 1989)	As Required	1	Mayor		Bathurst Regional Council, Motorsport Australia, NSW Office of Sport, NSW Police - Chifley Command,	04.00001
NSW RURAL FIRE SERVICE - CHIFLEY BUSHFIRE MANAGEMENT COMMITTEE (Rural Fires Act 1997)	Twice yearly	2	Ian North, Ben Fry	Graeme Hanger	Bathurst Regional Council, Oberon Council, various state government departments	13.00020
TRAFFIC COMMITTEE (Road Transport (Safety & Traffic Management) Act 1999)	Monthly	1	Warren Aubin	Ian North	Bathurst Regional Council, Police, Transport for NSW, State Member Representative	07.00006

### Project & Advisory Committee

Organisation/Committee	Meeting Frequency	Number of Delegates	Delegates	Alternate Delegates	Other Members	File Number
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BATHURST PUBLIC ART PROGRAM COMMITTEE	As Required	1	Margaret Hogan			11.00040
BATHURST REGION HERITAGE REFERENCE GROUP	As Required	9	All Councillors		Bathurst Regional Council	20.00123
BATHURST REGION NATURAL RESOURCE ADVISORY GROUP	As Required	1	Mayor		Bathurst Regional Council, community representatives	13.00001
BICYCLE FACILITIES WORKING PARTY	As Required	2	Ian North, Margaret Hogan	Kirralee Burke	Bicycle user group representatives, Bathurst Regional Council	20.00117
COUNCILLORS MEETINGS WITH COMMUNITY GROUPS/REPRESENTATIVES	Monthly	9	All Councillors		Bathurst Regional Council, By invitation	11.00019
INTERNATIONAL WOMEN'S DAY WORKING GROUP	As Required	2	Kirralee Burke, Margaret Hogan			23.00026
LIVING LEGENDS WORKING PARTY	Bi-Annually	2	Mayor, Deputy Mayor			20.00282

## Consortium

Organisation/Committee	Meeting Frequency	Number of Delegates	Delegates	Alternate Delegates	File Number
BATHURST 1000 (OCTOBER)	As Required	3	Warren Aubin, Andrew Smith, Ian North	Ben Fry	04.00001
BATHURST 12 HOUR (FEBRUARY)	Six monthly, includes costs	2	Warren Aubin, Ian North	Andrew Smith,	04.00097
BATHURST 6 HOUR (EASTER)	Six monthly, includes costs	2	Ian North, Warren Aubin	Andrew Smith,	04.00125
CHALLENGE BATHURST (NOVEMBER)	Six monthly, includes costs	2	Ian North, Warren Aubin	Andrew Smith,	04.00136
BATHURST INTERNATIONAL (NOVEMBER/DECEMBER)	Six monthly, includes costs	2	Ian North, Warren Aubin	Andrew Smith,	04.00148

## 6.1.4 AUDIT AND RISK MANAGEMENT COMMITTEE (ARMC) CHARTER

**File No:** 07.00096, 11.00005

### RECOMMENDATION:

That Council:

- a) Adopt the following:
    - Audit & Risk Management Committee Charter
    - Internal Audit Activity Charter
  - b) Appoint Mr Andrew Fletcher as an independent member to the Audit & Risk Management Committee (ARMC) and Chairman
  - c) Appoint Mr Phil Burgett as an Independent Member of the Audit & Risk Management Committee (ARMC)
- 

### REPORT:

Bathurst Regional Council has in place an Audit & Risk Management Committee (ARMC) with the following charter:

To assist the Council to discharge its responsibilities including, but not limited to:

- (a) Management and internal controls.
- (b) Monitoring the integrity of the Council's financial reporting practices and finance and accounting compliance.
- (c) Reviewing internal controls, key corporate risks and all audit related matters.

It is proposed that the ARMC established in the Council Governance report for the new Council, continues to oversee the internal audit and risk management functions of Council.

Further, the structure of the ARMC provides for independent members to be appointed. The current independent members are Mr Andrew Fletcher (Chairman) and Mr Phil Burgett. It is recommended that they be reappointed to the Audit & Risk Management Committee. This will ensure continuity is in place, which will be of great value in the process of establishing the new council. Roles and responsibilities are detailed in the documents attached.

It is recommended that Council adopt the following documents:

- Audit & Risk Management Committee Charter - **attachment 1**

- Internal Audit Activity Charter - **attachment 2**

## **FINANCIAL IMPLICATIONS:**

Costs of the ARMC are covered by existing budgets.

## **BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**

**Objective 6: Community leadership and collaboration.**

- Strategy 6.4 Meet legislative and compliance requirements.
- Strategy 6.5 Be open and fair in our decisions and our dealings with people.
- Strategy 6.6 Manage our money and our assets to be sustainable now and into the future.
- Strategy 6.8 Implement opportunities for organisational improvement.

## **COMMUNITY ENGAGEMENT:**

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

## **ATTACHMENTS:**

1. Audit Risk Management Committee Charter [6.1.4.1 - 8 pages]
2. Internal Audit Activity Charter [6.1.4.2 - 10 pages]

## **MINUTE**

**RESOLUTION NUMBER: ORD2022-5**

**MOVED: Cr W Aubin SECONDED: Cr B Fry**

## **RESOLVED:**

That Council:

- a) Adopt the following:
  - Audit & Risk Management Committee Charter
  - Internal Audit Activity Charter
- b) Appoint Mr Andrew Fletcher as an independent member to the Audit & Risk Management Committee (ARMC) and Chairman
- c) Appoint Mr Phil Burgett as an Independent Member of the Audit & Risk Management Committee (ARMC)

## 6.1.5 UPPER MACQUARIE COUNTY COUNCIL DELEGATES

**File No:** 11.00005, 18.00172

### **RECOMMENDATION:**

That Council appoint two delegates to the Upper Macquarie County Council.

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### **REPORT:**

Bathurst Regional Council is entitled to appoint two members to the Upper Macquarie County Council, which is the weeds authority for the council areas of Bathurst, Blayney, Lithgow and Oberon.

#### **Nominations**

Schedule 9 of the Local Government (General) Regulation 2021 applies.

The nomination:

- (a) may be made without notice by any councillor of the Council
- (b) is to be in writing delivered or sent to the returning officer
- (c) is not valid unless the nominee has indicated consent to the nomination in writing

Appointment of delegates to the Upper Macquarie County Council is for the period of the Council.

#### **Election of Delegates**

The Local Government (General) Regulation 2021, Schedule 9, prescribes how a councillor is to be elected as a member of a county council.

If there are more than two nominees, then an election is to be held by way of preferential ballot. Note for Bathurst Regional Council, two delegates are to be appointed.

A Nomination Form is shown at **attachment 1**. Councillors are to return the form to the General Manager, or be handed to the General Manager at the commencement of the meeting.

The procedure for the election will be:

1. The General Manager will be the Returning Officer
2. The General Manager will call for further nominations
3. Nominations will be closed
4. The Returning Officer will announce the names of the nominees at the Council meeting at which the election is to be held
5. If more than two nominations are received, an election will be held.



6. The election is to be conducted by preferential ballot
7. The election is to be declared at the Council meeting at which the ballot is held

## **FINANCIAL IMPLICATIONS:**

Nil

## **BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**

### **Objective 3: Environmental stewardship.**

- Strategy 3.3 Minimise the City's environmental footprint, live more sustainably and use resources more wisely.
- Strategy 3.4 Protect and improve the region's biodiversity.

### **Objective 6: Community leadership and collaboration.**

- Strategy 6.2 Work with our partners and neighbouring councils to share skills, knowledge and resources and find ways to deliver services more efficiently.
- Strategy 6.4 Meet legislative and compliance requirements.

## **COMMUNITY ENGAGEMENT:**

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

## **ATTACHMENTS:**

1. Nomination Form Election of Member to Upper Macquarie County Council [6.1.5.1 - 1 page]

## **MINUTE**

**RESOLUTION NUMBER: ORD2022-6**

**MOVED: Cr M Hogan SECONDED: Cr A Smith**

### **RESOLVED:**

That Council appoint two delegates to the Upper Macquarie County Council.

### **Election of Members:**

Three nominations were received for the two positions as members to the Upper Macquarie County Council. Councillors Aubin, Fry and North.

As there were more than two nominations, an election was held by preferential ballot.

The results of the first preference votes counting was:

Councillor Aubin -	1 vote
Councillor Fry -	3 votes
Councillor North -	3 votes

As no candidate received an absolute majority of first preference votes a second count was made.

The second count resulted in Councillor Aubin being excluded as he had received the fewest first preference votes and his preferences were distributed.

The results of the second count were:

Councillor Fry -	3 votes
Councillor North -	4 votes

**As Councillor North had received an absolute majority of votes, he was elected to the position of member to the Upper Macquarie County Council.**

**As Councillor Fry was the only continuing candidate, he was elected to the position of member to the Upper Macquarie County Council.**

## 6.1.6

## WESTERN REGIONAL PLANNING PANEL

**File No: 18.00274**

### RECOMMENDATION:

That Council:

- a) Appoint its delegates to the Western Regional Planning Panel; and
  - b) Advise the Secretariat of the Western Regional Planning of the appointments.
- 

### REPORT:

The State Government has established Regional Planning Panels (RPP) to provide independent, merit based decision on regionally significant development.

The Panels came into operation on 1 July 2009 and were formerly referred to as Joint Regional Planning Panels.

The Panels are responsible for determining Development Applications that are considered to be "regionally significant".

Two Council members are appointed by each Council. At least one Council member must have expertise on one or more of the following areas: planning, architecture, heritage, the environment, urban design, land economics, traffic and transport, law, engineering or tourism. Delegates are appointed for a period of 3 years or such shorter period as may be determined.

The responsibilities of Regional Planning Panel members are to:

- a) Exercise their functions in accordance with statutory requirement as set out in the EP&A Act and associated regulations
- b) Comply with the approved RPP Code of Conduct (refer **attachment 1**)
- c) Promote a sense of confidence in the RPP as independent decision making bodies.
- d) Establish and maintain effective working relationships with the Councils in the relevant RPP region.
- e) Foster a positive working relationship with other RPP members, the Panel Secretariat and the Department of Planning.
- f) Follow approved RPP procedures and participate in regular reviews of procedures, to ensure efficient and effective practices are adopted.
- g) Perform their functions with integrity, impartiality, honesty, conscientiousness, care, skill and diligence.
- h) Participate in/chair panel meetings or hold public hearing or panel meetings in a timely, efficient and cost-effective manner while having proper regard to the issues.

Whilst tradition has seen that Council would normally appoint a Councillor to the position it is open for it to appoint any person with the appropriate expertise. The

Panel's Operational Guidelines do however state that "property developers and real estate agents are not eligible to be members of the Panel".

Bathurst Regional Council appointed members are currently;

Cr Ian North (Mayor) and Mr David Sherley

With the election of a new Council it is appropriate to nominate two appointed members to the Regional Planning Panel to represent the Council.

## **FINANCIAL IMPLICATIONS:**

Costs of the RPP are covered within existing budgets.

## **BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**

**Objective 4: Enabling sustainable growth.**

Strategy 4.6 Plan for, assess and regulate development activity.

**Objective 6: Community leadership and collaboration.**

Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region.

Strategy 6.4 Meet legislative and compliance requirements.

## **COMMUNITY ENGAGEMENT:**

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

## **ATTACHMENTS:**

1. Sydney District and Regional Planning Panels Code of Conduct [**6.1.6.1** - 19 pages]

## **MINUTE**

**RESOLUTION NUMBER: ORD2022-7**

**MOVED: Cr B Fry SECONDED: Cr M Hogan**

## **RESOLVED:**

That Council:

- a) Note that Councillors Taylor and North have been appointed as Council's delegates to the Western Regional Planning Panel (refer Item 6.1.2 of the Business Paper); and
- b) Advise the Secretariat of the Western Regional Planning of the appointments.

## 6.1.7 DELEGATIONS REGISTER

**File No:** 41.00088

### RECOMMENDATION:

That Council adopt the delegations register as tabled.

---

### REPORT:

To facilitate the operations of Council, the Local Government Act (1993) at Section 377 provides for a General Power to delegate. The section provides that;

- 1) *A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, other than the following —*
  - a) *the appointment of a general manager,*
  - b) *the making of a rate,*
  - c) *a determination under section 549 as to the levying of a rate,*
  - d) *the making of a charge,*
  - e) *the fixing of a fee,*
  - f) *the borrowing of money,*
  - g) *the voting of money for expenditure on its works, services or operations,*
  - h) *the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),*
  - i) *the acceptance of tenders to provide services currently provided by members of staff of the council,*
  - j) *the adoption of an operational plan under section 405,*
  - k) *the adoption of a financial statement included in an annual financial report,*
  - l) *a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,*
  - m) *the fixing of an amount or rate for the carrying out by the council of work on private land,*
  - n) *the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,*
  - o) *the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979,*
  - p) *the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,*
  - q) *a decision under section 356 to contribute money or otherwise grant financial assistance to persons,*
  - r) *a decision under section 234 to grant leave of absence to the holder of a civic office,*
  - s) *the making of an application, or the giving of a notice, to the Governor or Minister,*
  - t) *this power of delegation,*
  - u) *any function under this or any other Act that is expressly required to be exercised by resolution of the council.*

(1A) Despite subsection (1), a Council may delegate its functions relating to the granting of financial assistance if –

- a) the financial assistance is part of a specified program, and
- b) the program is included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and
- c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and
- d) the program applies uniformly to all persons within the council's area or to a significant proportion of all the persons within the council's area.

(2) A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Departmental Chief Executive except as provided by the instrument of delegation to the council.

(3) A council may delegate functions to a joint organisation only with the approval, by resolution, of the board of the joint organisation.

Further, the Local Government Act (1993) at Section 378 provides the power for the General Manager to delegate functions. The section provides that;

- 1) The General Manager may delegate any of the functions of the General Manager, other than this power of delegation.
- 2) The General Manager may sub-delegate a function delegated to the General Manager by the Council to any person or body (including another employee of the Council).
- 3) Subsection (2) extends to a function sub-delegated to the General manager by the Council under section 377(2).

A review of the existing Delegation Register for Bathurst Regional Council has been undertaken. It is proposed that the tabled delegations instrument be adopted by the Council, refer **attachment 1**.

## **FINANCIAL IMPLICATIONS:**

The Delegations Register provides the authority to authorise expenditures on behalf of the Council.

## **BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**

### **Objective 6: Community leadership and collaboration.**

- Strategy 6.4 Meet legislative and compliance requirements.
- Strategy 6.5 Be open and fair in our decisions and our dealings with people.
- Strategy 6.6 Manage our money and our assets to be sustainable now and into the future.

## **COMMUNITY ENGAGEMENT:**

01 **Inform** - to provide the public with balanced and objective information to help them

understand the problem, alternatives, opportunities and/or solutions.

**ATTACHMENTS:**

1. Delegations Register [6.1.7.1 - 18 pages]

**MINUTE**

**RESOLUTION NUMBER: ORD2022-8**

**MOVED: Cr A Smith SECONDED: Cr B Fry**

**RESOLVED:**

That Council adopt the delegations register as tabled.

## 6.1.8 PURCHASING POLICY AND MANUAL

**File No: 15.00008**

### **RECOMMENDATION:**

That Council:

- a) Adopt the Purchasing – Acquisition of Goods and Services Policy
  - b) Adopt the Purchasing Manual
  - c) Delegate authority to the General Manager to update Appendix 2 – Suppliers Exempt from Requirement to Obtain Quotations as required from time to time.
- 

### **REPORT:**

Council has a Purchasing – Acquisition of Goods and Services Policy which establishes the principles for Council's procurement practices. Accompanying this Policy, Council has developed a procedural document known as Council's Purchasing Manual.

It is recommended that Council:

- a) Adopt the Purchasing – Acquisition of Goods and Services Policy as shown at **attachment 1**.
- b) Adopt the Purchasing Manual, as shown at **attachment 2**.
- c) Delegate authority to the General Manager to update Appendix 2 – Suppliers Exempt from Requirement to Obtain Quotations as required from time to time.

### **FINANCIAL IMPLICATIONS:**

Procurement by Council is done within existing budgets or approved tenders. The Policy and manual provides guidelines for procurement practices.

### **BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**

**Objective 6: Community leadership and collaboration.**

- Strategy 6.4 Meet legislative and compliance requirements.  
Strategy 6.5 Be open and fair in our decisions and our dealings with people.  
Strategy 6.6 Manage our money and our assets to be sustainable now and into the future.

### **COMMUNITY ENGAGEMENT:**



01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

**ATTACHMENTS:**

1. Purchasing Acquisition of Goods and Services Policy [6.1.8.1 - 2 pages]
2. Purchasing Manual [6.1.8.2 - 29 pages]

**MINUTE**

**RESOLUTION NUMBER: ORD2022-9**

**MOVED: Cr B Fry SECONDED: Cr M Hogan**

**RESOLVED:**

That Council:

- a) Adopt the Purchasing – Acquisition of Goods and Services Policy
- b) Adopt the Purchasing Manual
- c) Delegate authority to the General Manager to update Appendix 2 – Suppliers Exempt from Requirement to Obtain Quotations as required from time to time.

## 6.1.9 CODE OF CONDUCT AND PANEL OF CONDUCT REVIEWERS

**File No:** 11.00024, 41.00089

### RECOMMENDATION:

That Council:

- a) Adopt the Bathurst Regional Council Code of Conduct.
- b) Adopt the Bathurst Regional Council Procedures for the Administration of the Code of Conduct.
- c) Appoint the Central West NSW Joint Organisation panel of Conduct Reviewers as the Panel for the Council.

---

### REPORT:

The Local Government Act 1993 at Section 440 requires that Councils must adopt a Code of Conduct. This Code is to include any model provisions established by way of the Local Government Act and associated regulations.

The Code is applicable to Councillors, Administrators, members of staff and delegates of Council and assists in the good governance of Council.

Further, the Regulations may also prescribe a model procedure for administering the model code referred to above, as per Section 440AA of the Local Government Act.

Council has in place the following policies with respect to the Code of Conduct;

- Code of Conduct (**attachment 1**)
- Code of Conduct Procedures for the Administration of the Model Code (**attachment 2**)

It is recommended that:

1. Council's Code of Conduct be adopted. The Code is generally based on the Office of Local Government's Model Code of Conduct document.
2. Council's Procedures for the Administration of the Code be adopted. This procedural document is largely based on the "Model" released by the Office of Local Government.

Part 3 of the Procedures for the Administration of the Code requires Council to establish a panel of conduct reviewers. Council may 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. Council has entered an arrangement with Central West NSW Joint Organisation (formerly CENTROC) to establish a panel of conduct reviewers. A conduct reviewer is appointed for a term of up to four years but may be a member of subsequent panels if they continue to meet the

selection and eligibility criteria for membership of the panel.

It is recommended that:

1. Council appoints the Central West NSW Joint Organisation (formerly CENTROC) panel of conduct reviewers as the Panel for the Council.

## **FINANCIAL IMPLICATIONS:**

There are no financial implications resulting from this report at this time.

## **BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**

**Objective 6: Community leadership and collaboration.**

Strategy 6.4 Meet legislative and compliance requirements.

Strategy 6.5 Be open and fair in our decisions and our dealings with people.

## **COMMUNITY ENGAGEMENT:**

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

## **ATTACHMENTS:**

1. Bathurst Regional Council Code of Conduct - Adopted September 2020 [6.1.9.1 - 47 pages]
2. Bathurst Regional Council Procedures-for-the- Administration-of-the- Code-of-Conduct - Adopted September 2020 [6.1.9.2 - 38 pages]

## **MINUTE**

**RESOLUTION NUMBER: ORD2022-10**

**MOVED: Cr M Hogan SECONDED: Cr A Smith**

## **RESOLVED:**

That Council:

- a) Adopt the Bathurst Regional Council Code of Conduct.
- b) Adopt the Bathurst Regional Council Procedures for the Administration of the Code of Conduct.
- c) Appoint the Central West NSW Joint Organisation panel of Conduct Reviewers as the Panel for the Council.

## 6.1.10 CODE OF MEETING PRACTICE

**File No: 11.00005, 07.00064**

### RECOMMENDATION:

That Council:

- a) Place the Code of Meeting Practice on public exhibition for 28 days, and
- b) Receive a further report following the public exhibition period.

---

### REPORT:

Section 360 of the Local Government Act 1993 requires Council to adopt a code of meeting practice that incorporates the requirements of the Local Government (General) regulation 2005.

#### **360 Conduct of meetings of councils and committees**

- 1) *The regulations may prescribe a model code of meeting practice for the conduct of meetings of councils and committees of councils of which all the members are councillors.*
- 2) *The model code may contain both mandatory and non-mandatory provisions.*
- 3) *A council must, not later than 12 months after an ordinary election of councillors, adopt a code of meeting practice that incorporates the mandatory provisions of the model code prescribed by the regulations. The adopted code may also incorporate the non-mandatory provisions and other provisions.*
- 4) *A code adopted or amended by the council must not contain provisions that are inconsistent with the mandatory provisions.*
- 5) *A council and a committee of the council of which all the members are councillors must conduct its meeting in accordance with the code of meeting practice adopted by it.*

Bathurst Regional Council has previously adopted a Code of Meeting Practice. On 29 October 2021, the Office of Local Government via Circular 21-35 released an updated Model Code of Meeting Practice. The mandatory provisions of the Model have been included in Council's previously adopted Code which is provided at **attachment 1**. It is presented for consideration by Council. The Code aligns with the Council Governance Structure at General Manager report 6.1.1.

Clause 4.5 is also proposed to be altered allowing each speaker three (3) minutes to address Council during Public Forum. Council's practice has been, that where in the opinion of the Council, that a speaker requires additional time, Council has by resolution provided a further one (1) minute time extension.

It is recommended that the Code of Meeting Practice be placed on public exhibition for a period of 28 days in accordance with Section 361 of the Local Government Act:

### **361 Preparation, public notice and exhibition of draft code**

- 1) *Before adopting a code of meeting practice, a council must prepare a draft code.*
- 2) *The Council must give public notice of the draft code after it is prepared.*
- 3) *The period of public exhibition must not be less than 28 days.*
- 4) *The public notice must also specify a period of not less than 42 days after the date on which the draft code is placed on public exhibition during which submissions may be made to the council.*
- 5) *The council must publicly exhibit the draft code in accordance with its notice.*

A further report will be prepared for Council following the submission period to allow consideration of any public submissions prior to adoption. This is in accordance with Section 362 of the Local Government Act.

### **362 Adoption of draft code**

- 1) *After considering all submissions received by it concerning the draft code, the council may decide –*
  - a) *to amend those provisions of its draft mandatory code that are non-mandatory provisions, or*
  - b) *to adopt the draft code as its code of meeting practice*
- 2) *If the council decides to amend its draft code, it may publicly exhibit the amended draft in accordance with this Division or, if the council is of the opinion that the amendments are not substantial, it may adopt the amended draft code without public exhibition as its code of meeting practice.*

### **FINANCIAL IMPLICATIONS:**

There are no financial implications from this report.

### **BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**

#### **Objective 6: Community leadership and collaboration.**

- Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region.
- Strategy 6.4 Meet legislative and compliance requirements.
- Strategy 6.5 Be open and fair in our decisions and our dealings with people.

### **COMMUNITY ENGAGEMENT:**

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

## **ATTACHMENTS:**

1. Code of Meeting Practice [6.1.10.1 - 35 pages]
2. OLG Circular [21-35] [6.1.10.2 - 2 pages]

## **MINUTE**

**RESOLUTION NUMBER: ORD2022-11**

**MOVED: Cr M Hogan SECONDED: Cr G Hanger**

## **RESOLVED:**

That Council:

- a) Place the Code of Meeting Practice on public exhibition for 28 days, and
- b) Receive a further report following the public exhibition period.

**6.1.11 GOVERNANCE - PAYMENT OF EXPENSES & PROVISION OF FACILITIES FOR COUNCILLORS**

**File No: 11.00008, 41.00089**

**RECOMMENDATION:**

That Council:

- a) Place the draft Policy on the Payment of Expenses and Provisions of Facilities, on public exhibition for 28 days, and
  - b) Receive a further report following the exhibition period.
- 

**REPORT:**

Section 252 of the Local Government Act 1993 requires Council to adopt a policy concerning the payment of expenses and provision of facilities to the Mayor, Deputy Mayor and other Councillors. Shown at **attachment 1** is the draft policy for consideration.

**252 Payment of expenses and provision of facilities**

- 1) *Within the first 12 months of each term of a council, the council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.*
- 2) *The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.*
- 3) *A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.*
- 4) *A council may from time to time amend a policy under this section.*
- 5) *A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.*

In accordance with the requirements of section 253 of the Local Government Act 1993, Council is required to give notice of its intention to adopt this policy and provide an opportunity for the public to make submissions on the draft policy.

### **253 Requirement before policy concerning expenses and facilities can be adopted or amended**

- 1) *A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.*
- 2) *Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.*
- 3) *Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.*
- 4) *(Repealed)*
- 5) *A council must comply with this section when proposing to adopt a policy in accordance with section 252(1) even if the council proposes to adopt a policy that is the same as its existing policy.*

The decision to adopt the policy on the payment of expenses and provision of facilities will be reported to an open meeting of Council.

### **254 Decision to be made in open meeting**

*The council or a council committee all the members of which are councillors must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended, or at which any proposal concerning those matters is discussed or considered.*

### **FINANCIAL IMPLICATIONS:**

Funding for this item is contained within existing budgets.

### **BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**

#### **Objective 6: Community leadership and collaboration.**

- Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region.
- Strategy 6.4 Meet legislative and compliance requirements.
- Strategy 6.5 Be open and fair in our decisions and our dealings with people.

### **COMMUNITY ENGAGEMENT:**

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.



## **ATTACHMENTS:**

1. Governance Payment of Expenses Provision of Facilities f [OX97] [6.1.11.1 - 16 pages]

## **MINUTE**

**RESOLUTION NUMBER: ORD2022-12**

**MOVED: Cr W Aubin SECONDED: Cr A Smith**

## **RESOLVED:**

That Council:

- a) Place the draft Policy on the Payment of Expenses and Provisions of Facilities, on public exhibition for 28 days, and
- b) Receive a further report following the exhibition period.

## 6.1.12 REGISTER OF POLITICAL DONATIONS

File No: 12.00012

### RECOMMENDATION:

That Council note the register of political donation disclosures.

---

### REPORT:

Councils are required under Section 328A of the Local Government Act (1993) to keep a register of current declarations of disclosures of political donations;

#### **328A General manager to keep register of political donation disclosures**

- 1) *The general manager is required to keep a register of copies of current declarations of disclosures of political donations lodged with the New South Wales Electoral Commission by or on behalf of councillors of the council concerned (including in their capacity as candidates for election as councillors).*
- 2) *For the purposes of this section, current declarations of disclosures of political donations are declarations lodged under Part 3 of the Electoral Funding Act 2018 in respect of the relevant disclosure period that includes the date of the last election (other than a by-election) and all subsequent relevant disclosure periods.*

#### **Note -**

Part 3 of the Electoral Funding Act 2018 makes provision for disclosure by councillors and candidates for civic office (and parties registered in connection with local government elections) of political donations and electoral expenditure.

Bathurst Regional Council has a link on its website to the NSW Electoral Commission, which facilitates access to declarations of disclosures. The link satisfies the needs of S:328A of the Local Government Act and can be found at <https://www.bathurst.nsw.gov.au/2021-local-council-elections.html> or <https://www.elections.nsw.gov.au/>

Councillors attention is also drawn to obligations to disclose political donations and electoral expenditures to the NSW Electoral Commissioner periodically for their term of office. The first disclosure is due 25 February 2022. To assist Councillors in meeting their obligations at **attachment 1** is a Fact Sheet provided by the NSW Electoral Commission.

### FINANCIAL IMPLICATIONS:

There are no financial implications from this report.

### BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

**Objective 6: Community leadership and collaboration.**

Strategy 6.4 Meet legislative and compliance requirements.

Strategy 6.5 Be open and fair in our decisions and our dealings with people.

## **COMMUNITY ENGAGEMENT:**

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

## **ATTACHMENTS:**

1. Fact Sheet - Disclosing Political Donations [6.1.12.1 - 5 pages]

## **MINUTE**

**RESOLUTION NUMBER: ORD2022-13**

**MOVED: Cr W Aubin SECONDED: Cr I North**

## **RESOLVED:**

That Council note the register of political donation disclosures.

## **6.1.13 COMMUNITY ENGAGEMENT POLICY**

**File No: 02.00003**

### **RECOMMENDATION:**

That Council note the adopted Community Engagement Policy which incorporates the Community Engagement Strategy.

---

### **REPORT:**

Bathurst Regional Council has in place a Community Engagement Policy relating to communications, media and community engagement.

This Policy guides the Council's interaction with its community and stakeholders and provides detail to the community on what they can expect in regards to effective and professional levels of communication.

The adoption of the policy is a commitment by Council to recognise that consultation is a valued part of strategic decision making.

The Policy and associated Strategy is provided at **attachment 1** to assist in the Council meeting the needs of the community.

### **FINANCIAL IMPLICATIONS:**

Funding is provided in Council budgets to facilitate engagement strategies.

### **BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**

#### **Objective 6: Community leadership and collaboration.**

- Strategy 6.1 Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region.
- Strategy 6.4 Meet legislative and compliance requirements.
- Strategy 6.5 Be open and fair in our decisions and our dealings with people.
- Strategy 6.8 Implement opportunities for organisational improvement.

### **COMMUNITY ENGAGEMENT:**

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

**ATTACHMENTS:**

1. Community Engagement Strategy [6.1.13.1 - 9 pages]

**MINUTE**

**RESOLUTION NUMBER: ORD2022-14**

**MOVED: Cr A Smith SECONDED: Cr M Hogan**

**RESOLVED:**

That Council note the adopted Community Engagement Policy which incorporates the Community Engagement Strategy.

## 6.1.14 SOCIAL MEDIA POLICY - COUNCILLORS

File No: 08.00021

### RECOMMENDATION:

That Council note the Social Media Policy – Councillors.

---

### REPORT:

Bathurst Regional Council has in place (adopted 17 February 2021) a Social Media Policy – Councillors, **refer attachment 1**, which scope includes:

*“This policy applies to the official, personal and professional use of social media by all Councillors. It applies to all activities undertaken in their capacity as councillors, administrators, council committee members and delegates of council.*

*As a Councillor, it is your responsibility to ensure that your actions or communications on your personal or Council-owned social media account do not bring Council into disrepute.”*

The Policy provides guidelines to Councillors on business and personal use of Social Media in order to minimise the potential for negative impacts to Council’s reputation.

### FINANCIAL IMPLICATIONS:

Nil

### BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

**Objective 6: Community leadership and collaboration.**

Strategy 6.4 Meet legislative and compliance requirements.

Strategy 6.5 Be open and fair in our decisions and our dealings with people.

### COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

### ATTACHMENTS:

1. Social Media Policy [6.1.14.1 - 4 pages]

**MINUTE**

**RESOLUTION NUMBER: ORD2022-15**

**MOVED: Cr W Aubin SECONDED: Cr A Smith**

**RESOLVED:**

That Council note the Social Media Policy – Councillors.

## 6.1.15 PROVISION OF ELECTION SERVICES - 2024 LOCAL GOVERNMENT ELECTIONS

**File No:** 12.00010

### **RECOMMENDATION:**

That the Bathurst Regional Council (“the council”) resolves:

- a) pursuant to Section 296(2) and (3) of the Local Government Act 1993 (NSW) (“the Act”) that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
- b) pursuant to Section 296(2) and (3) of the Act, as applied and modified by Section 18, that a Council poll arrangement be entered into by contract for the Electoral Commissioner to administer all Council polls of the Council.
- c) pursuant to Section 296(2) and (3) of the Act, as applied and modified by Section 18, that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

---

### **REPORT:**

Councillors would be aware that there will be a general local government election in September 2024.

Section 296 of the Local Government Act 1993 provides:-

#### **296 How elections are to be administered**

- 1) *Elections for the purposes of this Chapter are to be administered by an electoral services provider engaged by the council concerned, except as provided by this section.*

***Note.** Section 18 provides that certain provisions of this Act (relating to the conduct of elections) apply to council polls and constitutional referendums, with such modifications as may be necessary, in the same way as they apply to elections.*

- 2) *A council can enter into an arrangement (an **election arrangement**) with the Electoral Commissioner, by contract or otherwise, for the Electoral Commissioner to administer elections of the council as provided by this section. If such an arrangement is entered into, the Electoral Commissioner is to administer elections of the council in accordance with the arrangement.*
- 3) *An election arrangement for the Electoral Commissioner to administer all elections of a council can be entered into if—*
  - a) *the council resolves at least 18 months before the next ordinary election of councillors that such an arrangement is to be entered into, and*



- b) *the arrangement is entered into no later than 15 months before the next ordinary election of councillors.*
- 4) *An election arrangement for the Electoral Commissioner to administer a particular election of a council (other than an ordinary election of councillors) can be entered into at any time if the council has resolved that an election arrangement for the election is to be entered into.*
  - 5) *An election arrangement for the Electoral Commissioner to administer an ordinary election of councillors can be entered into less than 15 months before the election if—*
    - a) *the council has resolved that an election arrangement for the election is to be entered into, and*
    - b) *the Electoral Commissioner is satisfied that there are exceptional circumstances that make it necessary or desirable for the election to be administered by the Electoral Commissioner.*
  - 5A) *Without limiting subsection (5), an election arrangement for the Electoral Commissioner to administer all elections of a council that is to include the ordinary election of councillors in 2020, or to administer that particular election, may be entered into if —*
    - a) *the council resolves on or before 1 October 2019 that an arrangement is to be entered into, and*
    - b) *the arrangement is entered into on or before 1 January 2020.*
  - 6) *An election arrangement for the Electoral Commissioner to administer all elections of a council can be terminated by the council or the Electoral Commissioner at any time after the next ordinary election of councillors (by giving written notice of termination). If the arrangement is not terminated by either party after an ordinary election of councillors, the arrangement is automatically terminated 18 months before the next ordinary election of councillors.*
  - 7) *The Electoral Commissioner is to administer the first election for an area after its constitution. Expenses incurred by the Electoral Commissioner (including the remuneration of election officials) in connection with such an election are to be met by the council and are recoverable from the council as a debt owed to the Electoral Commissioner.*
  - 8) *This section does not apply to an election of the mayor or a deputy mayor by councillors.*

This Section provides Councils with some flexibility in how they conduct their elections. Council is able to enter into a contract with either the NSW Electoral Commission or another body to conduct its election. The NSW Electoral Commission has conducted the Bathurst Regional Council elections since Council was no longer able to conduct them itself. The cost of the 2021 election is estimated to be \$323,000.

Section 55 of the Local Government 1993 relating to the need for Council to undertake tender processes for contracts in excess of \$250,000 states at sub section (3) (p)

*(3) This section does not apply to the following contracts:*

*(p) a contract or arrangement between a council and the Electoral Commissioner for the Electoral Commissioner to administer the Council's elections, council polls and constitutional referendums.*

It is recommended that Council resolve to utilise the services of the NSW Electoral Commission for the conduct of the 2024 local government election.

In order for Council to utilise the services of the NSW Electoral Commission, Council must resolve to enter into an agreement with the NSW Electoral Commission at least 18 months prior to the 2024 election. The NSW Electoral Commission, in 2016, provided a model resolution for councils to use in order to ensure that a council electing to use their services is properly covered for all election possibilities such as an election, poll or referendum. The same advice still applies to the 2024 election. It is therefore recommended that Council make the following resolution:

That the Bathurst Regional Council ("the Council") resolves:

- a) Pursuant to Section 296(2) and (3) of the Local Government Act 1993 (NSW) ("the Act") that an election arrangement be entered into by contract for the Electoral Commissioner to administer all elections of the Council.
- b) Pursuant to Section 296(2) and (3) of the Act, as applied and modified by Section 18, that a council poll arrangement be entered into by contract for the electoral Commissioner to administer all Council polls of the Council.
- c) Pursuant to Section 296(2) and (3) of the Act, as applied and modified by Section 18 that a constitutional referendum arrangement be entered into by contract for the Electoral Commissioner to administer all constitutional referenda of the Council.

The NSW Electoral Commission, in 2016, also provided the following advice in relation to the above resolution and this is also still relevant for the upcoming election.

- Where Council intends to engage the NSW Electoral Commission to conduct the Council's September 2016 ordinary election, the model resolution for the all elections contract should be used.
- The all elections contract covers the ordinary election, any poll or referendum that might be held with the ordinary election, and any subsequent by-election poll or referendum that may occur during the term of the contract (4 years)
- Any time after the 2016 ordinary election, either Council or the NSW Electoral Commission can terminate an all elections contract by giving 4 weeks written notice to the other party.
- If the all elections contract isn't terminated beforehand, it automatically expires 18 months prior to the 2024 ordinary elections i.e March 2023.
- Should Council wish to engage the NSW Electoral Commission to conduct a by-election, poll or referendum BEFORE the 2024 ordinary election, a separate resolution must be passed by the Council. In this case, the model resolution for the particular election contract should be used (see working 'Model council resolutions re Section 296 (4) LG Act- Particular Election, Poll or Referendum' below)

- The model resolution have been carefully drafted to ensure they conform with the legislative framework. There is no need to add any additional wording because they may either be ineffective, or will render the resolution unworkable.

## **FINANCIAL IMPLICATIONS:**

There are no financial implications resulting from this report for the current financial year. Provisions are made annually to fund the cost of the 2024 election.

## **BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**

**Objective 6: Community leadership and collaboration.**

Strategy 6.4 Meet legislative and compliance requirements.

Strategy 6.5 Be open and fair in our decisions and our dealings with people.

## **COMMUNITY ENGAGEMENT:**

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

## **ATTACHMENTS:**

Nil

## **MINUTE**

**RESOLUTION NUMBER: ORD2022-16**

**MOVED: Cr I North SECONDED: Cr W Aubin**

## **RESOLVED:**

That the considerations for the Provision of Election Services - 2024 Local Government Elections be deferred for consideration at a future working party of the Council.

**6.1.16 LGNSW SPECIAL CONFERENCE 28 FEBRUARY  
- 2 MARCH 2022**

**File No: 18.00289**

**RECOMMENDATION:**

That Council:

1. Nominate its voting delegates for the Local Government New South Wales (LGNSW) Special Conference.
2. Delegate the authority to the Mayor and the General Manager to nominate substitute delegates for:
  - i. Motions
  - ii. Board Elections

---

**REPORT:**

LGNSW is seeking the names of Council's nominated voting delegates for the LGNSW Special Conference, where the local government sector will debate and vote on council-submitted motions that help set our advocacy priorities for 2022.

This event is a different conference to the 2021 Annual Conference and has been scheduled for the period 28 February to 2 March 2022 and requires a separate roll of nominated voters under the rules.

Council is entitled to three (3) voting delegates. Traditionally, one of these will be the Mayor. It is recommended that Council nominate its voting delegates and any observers for the LGNSW Special Conference before the cut-off time of 5pm on Thursday, 17 February 2022.

The conference will be held at the Hyatt Regency, Sydney over the period 28 February – 2 March 2022.

**FINANCIAL IMPLICATIONS:**

Funding for this item is contained within existing budgets

**BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**

**Objective 6: Community leadership and collaboration.**

Strategy 6.3 Advocate for our community.

**COMMUNITY ENGAGEMENT:**

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

## **ATTACHMENTS:**

Nil

## **MINUTE**

**RESOLUTION NUMBER: ORD2022-17**

**MOVED: Cr I North SECONDED: Cr W Aubin**

## **RESOLVED:**

That Council:

1. Nominate Councillors Taylor, Fry and Jennings as its voting delegates and Councillors Hogan and Smith as observers for the Local Government New South Wales (LGNSW) Special Conference.
2. Delegate the authority to the Mayor and the General Manager to nominate substitute delegates for:
  - i. Motions
  - ii. Board Elections

## **7 MEETING CLOSE**

### **MINUTE**

The Meeting closed at 6.35pm.

### **CHAIR:**

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**AUDIT AND RISK  
MANAGEMENT  
COMMITTEE  
  
CHARTER**

Adopted 27 March, 2019

AUDIT AND RISK MANAGEMENT COMMITTEE CHARTER

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Adopted 27 March, 2019

## AUDIT AND RISK MANAGEMENT COMMITTEE CHARTER

### AUDIT AND RISK MANAGEMENT COMMITTEE CHARTER

#### 1 Audit and Risk Management Committee Purpose

The Audit and Risk Management Committee (ARMC) is an advisory Committee assisting the Council to fulfil its governance and oversight responsibilities. The primary duties and responsibilities of the ARMC are to assist the Council to discharge its responsibilities relating to:

- 1.1 Financial reporting process
- 1.2 Business ethics, policies and practices
- 1.3 Management and internal controls
- 1.4 Monitoring the integrity of the Council's financial reporting practices and finance and accounting compliance
- 1.5 Reviewing internal controls, key corporate risks and all audit related matters
- 1.6 Encouraging continuous improvement of Council's systems and practices
- 1.7 Adoption of the Internal Audit Plan
- 1.8 The Council's process for monitoring compliance with policies, laws and regulations and the Council code of conduct.

#### 2 Authority

2.1 The ARMC is granted delegated authority by Council to carry out its duties and responsibilities as defined in this charter, The ARMC has delegated authority to approve investigations into any matters within its scope of responsibility. It is empowered to:

- 2.1.(a) Resolve any disagreements between management and the auditor regarding financial reporting (subject to confidentiality considerations).
- 2.1.(b) Pre-approve all auditing and non-audit services.
- 2.1.(c) After due consultation with the General Manager, retain independent counsel, accountants, or others to advise the committee or assist in the conduct of an investigation.
- 2.1.(d) Meet with Council management, external auditors, or outside counsel, as necessary.
- 2.1.(e) The Council acknowledges that professional independence and objectivity are key attributes of an efficient and effective ARMC. The Council and General Manager are therefore committed to uphold and guarantee the professional independence and objectivity of the ARMC.

#### 3. Composition

- 3.1 All appointments to the ARMC shall be made by Council.
- 3.2 The ARMC will consist of:
  - 3.2.1 Core Members (voting)

Adopted 27 March, 2019

### AUDIT AND RISK MANAGEMENT COMMITTEE CHARTER

- Mayor of the day (or a Councillor nominated by the Mayor as his representative)
  - One Councillor
  - Two independent external members (not member of Council and one to be Chairperson)
- 3.2.2 Attendee (non-voting)
- General Manager
  - Internal Auditor
  - Director responsible for corporate functions
  - One alternate Councillor Delegate who will have voting rights in the absence of the other Councillor.
- 3.2.3 Invitees (non-voting)
- Representatives of the external auditor.
  - Other officers of Council as requested by the ARMC and/or General Manager
- 3.3 In order to maintain independence, and to comply with the recommendations of the Office of Local Government, the ARMC shall elect one of the independent members as its chairperson.
- 3.4 The selection of independent members should be undertaken in a transparent and unbiased manner. This could include calling for expressions of interest from interested persons.

#### 4 Tenure

- 4.1 The term of office for an ARMC member shall end on the earlier of:
- (a) the day on which the member resigns from the ARMC
  - (b) in the case of a Councillor, the day on which the Councillor ceases to be a Councillor
  - (c) two years in respect of the independent members or such other term as determined by Council.
  - (d) the day on which the member's appointment is legally terminated by Council.
  - (e) the day on which the member is incapacitated by law from holding such office.
- 4.2 Members are encouraged to serve multiple terms and to plan for an orderly rotation of members so that experienced members will always be serving. The ARMC should make recommendations to Council on membership.
- 4.3 In any event, the appointment of each member of the ARMC will be reviewed at the end of the first year and confirmed for the remaining period subject to satisfactory performance as determined by Council. A member may be eligible for re-appointment to the committee for a continuous period not exceeding eight (8) years.
- 4.4 In considering new independent members for the ARMC, selection shall be influenced by:

## AUDIT AND RISK MANAGEMENT COMMITTEE CHARTER

- (a) Industry standards for similar committees, particularly relating to the appointment of independents to ARMCs.
- (b) Any guidelines issued by the NSW Government concerning Local Government ARMCs
- (c) The attributes and experience of candidates who respond to Expressions of Interest advertisements for Independent Members.

4.5 The independent members on the ARMC should be remunerated for attending Committee meetings. The remuneration shall be adopted by Council.

### 5 Meetings and Quorum

- 5.1 The committee will meet at least four times a year, with authority to convene additional meetings, as circumstances require.
- 5.2 A quorum shall not exist unless at least 3 voting members are present:
- 5.3 Members of the ARMC are generally expected to attend each meeting, in person or via tele or video-conference with the approval of the Committee Chairperson.
- 5.4 The ARMC will invite members of management, auditors or others to attend meetings and provide pertinent information, as necessary.
- 5.5 The Committee will hold private meetings with auditors (see below) and executive sessions.
- 5.6 A meeting agenda will be provided in advance to members, along with appropriate briefing materials.
- 5.7 The Chairperson shall determine the agenda for the ARMC in conjunction with Council staff.
- 5.8 Minutes will be prepared and distributed to the ARMC members and to the next Ordinary meeting of the Council, including a report explaining any specific recommendations and key outcomes, if appropriate.
- 5.9 Meetings are to be rescheduled if there is not a quorum. The Council's Internal Auditor will minute proceedings of all meetings.
- 5.10 The chairperson shall endeavour to conduct meetings on a "consensus basis" but formal voting on recommendations shall be required. Each member shall have one vote and a majority of those present shall be required to pass a recommendation. The chairperson shall have a casting vote. The meetings should operate as far as practicable in accordance with the Council's Code of Meeting Practice.

### 6 Confidentiality

- 6.1 The ARMC will ensure that Committee members comply with all relevant laws and Council's policies regarding confidentiality, privacy and reporting. Committee members shall treat all information received as part of the Committee as confidential and only disclose the content to third parties with the consent of other members of the Committee.

### 7 Responsibilities

- 7.1 The ARMC has no executive powers, except those expressly provided by Council.
- 7.2 In carrying out its responsibilities, the Committee must at all times recognise that primary responsibility for management of Council rests with the Council and General Manager as defined by the Local Government Act 1993. The Council and General Manager shall ensure that reasonable resources are allocated to providing the ARMC

## AUDIT AND RISK MANAGEMENT COMMITTEE CHARTER

with the information it needs to discharge its responsibilities.

- 7.3 The responsibilities of the ARMC may be revised or expanded by Council from time to time. The Committee will carry out the following responsibilities:

### 7.3 (a) Financial Statements

- Review significant accounting and reporting issues, including complex or unusual transactions and highly judgmental areas, and recent professional and regulatory pronouncements, and understand their impact on the financial statements. The ARMC can add value for Councillors and the process by reviewing the audit objectives, timeline and process, settlement of identified issues and the independence of the external auditor. This would be done in consultation with the External Auditor, Internal Auditor and management
- Based on the audit objectives, review with management and the external auditors the results of the audit, timeline and process, settlement of identified issues and the independence of the external auditor. Review the process of the audit, identify unresolved issues.
- Review the audited annual financial statements and consider whether they are complete, consistent with information known to committee members, and reflect appropriate accounting principles. Without having conducted its own assessment the ARMC will need to rely on the work of Internal, External Auditor and management representations. Therefore any recommendation to Council would be based on the External Auditors Management Letter and made under a disclaimer that identifies things such as the audit process, access to records, auditor appears to be suitably qualified, had sufficient time to complete, items identified have been resolved to their satisfaction.
- As part of the External Auditors presentation and management representations, review with management and the external auditors all matters required to be communicated to the Committee under generally accepted auditing Standards.
- Understand how management develops interim financial information, and the nature and extent of internal and external auditor involvement.

### 7.3.(b) Risk Management

- Review whether management has in place a current and comprehensive risk management framework, and associated procedures for effective identification and management of business and financial risks, including fraud.
- Review whether a sound and effective approach has been followed in developing strategic risk management plans for major projects or undertakings.
- Review the impact of the risk management framework on its control environment and insurance arrangements, and
- Review whether a sound and effective approach has been followed in establishing business continuity planning arrangements, including whether plans have been tested periodically.

### 7.3.(c) Internal Control

Consider the adequacy and effectiveness of the Council's internal control systems,

## AUDIT AND RISK MANAGEMENT COMMITTEE CHARTER

incorporating the:

- Reliability and integrity of financial and operational information systems, including information technology security and control
- Effectiveness and efficiency of operations and
- Safeguarding assets
- Compliance with contracts, laws and regulations
- Governance framework
- Understand the scope of internal auditors' review of internal control over financial reporting and obtain reports on significant findings and recommendations, together with management's responses.

### 7.3.(d) Internal Audit

- Review and recommend approval of the Internal Audit Activity Charter, activities, and staffing, and organisational structure of the internal audit function; and any subsequent changes.
- Have final authority to review and approve the annual audit plan and all major changes to the plan.
- Ensure there are no unjustified restrictions or limitations to the activities of internal audit.
- Review the effectiveness of the internal audit function and objectives, including compliance with The Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*.

### 7.3.(e) External Audit

- Establish that an appropriate process is in place to give assurance that the Council complies with the Local Government Act requirements for financial reporting and auditing.
- Review the external auditors' proposed audit scope and approach, including coordination of audit effort with internal audit.
- Review and confirm the independence of the external auditors by obtaining statements from the auditors on relationships between the auditors and the Council, including non-audit services, and discussing the relationships with the auditors.
- Review management's responses to the recommendations in the external auditor's management letter.
- On a regular basis, meet separately with the external auditors to discuss any matters that the Committee or auditors believe should be discussed privately.

### 7.3.(f) Compliance

- Review the effectiveness of the system for monitoring compliance with laws, regulations and contracts and the results of management's investigation and follow-up of any instances of noncompliance.
- Review the findings of any examinations by regulatory agencies, and any auditor observations.
- Review the process for communicating the code of conduct to Council personnel, and for monitoring compliance therewith.

### AUDIT AND RISK MANAGEMENT COMMITTEE CHARTER

- Liaise with the General Manager to obtain regular updates from management and Council legal counsel regarding compliance matters.
- Review other sections of the annual report and related regulatory filings before release and consider the accuracy and completeness of the information.

#### 7.3.(g) Reporting Responsibilities

- Regularly report to the Council about committee activities, issues and related recommendations.
- Provide an open avenue of communication between internal audit, the external auditors, and the Council.
- Report annually to the Council, describing the committee's compositions, responsibilities and how they were discharged, and any other information required by law, including non-audit services.
- Review any other reports the Council issues that relate to Committee responsibilities.

#### 7.3.(h) Other Responsibilities

- Perform other activities related to this charter as requested by the Council.
- Institute and oversee special investigations as needed.
- Review and assess the adequacy of the ARMC Charter annually, requesting Council approval for proposed changes, and ensure appropriate disclosure as may be required by law or regulation.
- Confirm annually that all responsibilities outlined in this charter have been carried out.
- Evaluate the committee's and individual members' performance on a regular basis.

#### 7.3.(i) Individual Responsibilities of Members

Members of the ARMC are expected to:

- Understand the relevant legislative and regulatory requirements appropriate to Bathurst Regional Council.
- Contribute the time needed to study and understand the papers provided.
- Apply good analytical skills, objectivity and good judgement.
- Express opinions frankly, ask questions that go to the fundamental core of issues, and pursue independent lines of enquiry.
- Declare any conflicts of interest before participating in deliberations on the issue where the conflict of interest exists.
- Attend an induction meeting at which they receive relevant information and briefings on their appointment to assist them to meet their Committee responsibilities.



# **INTERNAL AUDIT ACTIVITY CHARTER**

# INTERNAL AUDIT ACTIVITY CHARTER

---

## OBJECTIVES

- To provide a framework which encompasses all aspects of accountability and transparency for the internal audit of financial, legislative and operational processes.
- To provide key result areas and performance standards for the internal audit process across all Council operations.

## APPLICABILITY

To all staff involved in an operational function that is the subject of internal audit.

## GENERAL

Bathurst Regional Council has agreed to resource share the internal audit process with Orange City Council.

The Audit and Risk Management Committee (ARMC) Charter has been adopted by Council. The ARMC has been established and the voting and non-voting membership of the ARMC is determined by Council in accordance with the ARMC Charter.

The Internal Audit Activity Charter is the accountability framework for each internal audit undertaken.

## PROCEDURE

Documented in the Internal Audit Activity Charter and the Annual Internal Audit Plan established by the Internal Auditor.

## RELATED POLICIES/DOCUMENTS

Annual Internal Audit Plan

Code of Conduct

## SUMMARY OF AMENDMENTS &amp; REVISIONS

DATE	AMENDMENT	DATE APPROVED BY CHIEF EXECUTIVE OFFICER
July 2020	<ul style="list-style-type: none"> <li>• Update to current style formatting</li> <li>• Removal of reference to BOD Alliance with Dubbo Regional Council's withdrawal.</li> <li>• Update to references of guidance papers, codes and standards.</li> <li>• Section 1.1 added definition of Internal Audit function.</li> <li>• Section 1.2 added explanation on scope of definition of internal audit function.</li> <li>• Section 7 added independent quality assurance review requirements.</li> </ul>	
September 2015	New Format, No Significant Amendments	21 September 2015
REVISION VERSION	DATE OF APPROVAL BY THE GENERAL MANAGER	RESOLUTION
1		
2		
3		

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## 1 Preamble

- 1.1. This policy adopts the Institute of Internal Auditors' (IIA) definition of 'internal audit' as 'an independent, objective assurance and consulting activity designed to add value and improve an organisation's operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes'.
- 1.2. The IIA definition covers two types of internal audit services:
  - **Assurance Services** – an objective examination of evidence to provide an independent assessment of risk management, control and governance processes of the organisation and;
  - **Consulting Services** – advisory and related client activities, the nature and scope of which are agreed upon with the client and which are intended to add value and improve an organisation's governance, risk management and control processes without the internal auditor assuming management responsibility.

In this policy, internal audit services may include either or both of these service types.
- 1.3. This Charter is a formal statement of purpose, authority and responsibility for a shared internal auditing function within Bathurst Regional Council and Orange City Council.
- 1.4. It establishes Internal Audit and recognises the importance of such an independent and objective service to both Councils.
- 1.5. It outlines the legal and operational framework under which Internal Audit will operate.
- 1.6. It authorises the Internal Auditor to deliver a broad range of internal audits to each Council and, where approved, external bodies.

## 2 Authority

- 2.1. The Audit, Risk and Improvement/Audit and Risk Management Committees (Committees) and General Manager (CEO/GM), by way of this Charter, hereby authorise the Internal Auditor to deliver a comprehensive program of internal audit work in the form of reviews, previews, consultancy advice, evaluations, appraisals, policy recommendations, assessments and investigations of functions, processes, controls and governance frameworks in the context of the achievement of the Councils' objectives.

- 2.2. For this purpose, all members of Internal Audit are authorised to have full, free and unrestricted access to all functions, property, personnel, records, information, accounts, files, monies and other documentation, as necessary for the conduct of their work.

The CEO/GM of each Council and Committees undertake to support the Internal Auditor from time to time as necessary to achieve the objectives of this Charter. Such assistance includes but is not limited to:

- a) Facilitating and approving procurement of specialised services from within or outside the organisation.
- b) Obtaining the necessary support of staff in departments being audited.
- c) Allocating any other resources as necessary to facilitate the achievement of audit objectives.
- d) Allowing the Internal Auditor full and free access to the Committees and to the CEO/GM of each Council.

### 3 Objectivity, Independence and Organisational Status

- 3.1. Objectivity requires an unbiased approach. As such, all Internal Audit staff shall perform internal audit engagements in such a manner that they have an honest belief in their work product and that no significant quality compromises are made. Further, it requires Internal Audit staff not to subordinate their judgement on internal audit matters to that of others.
- 3.2. To facilitate this approach, Internal Audit shall have independent status within each Council and for this purpose shall functionally be responsible directly through the Internal Auditor to the respective Committees and CEO/GM of each Council and administratively to the:
- Director Corporate Services and Finance - Bathurst Regional Council
  - Director Corporate and Commercial Services - Orange City Council
- 3.3. Internal Audit shall be independent of the activities reviewed and therefore shall not undertake any operating responsibilities outside internal audit work. Neither shall Internal Audit staff have any executive or managerial powers, authorities, functions or duties except those relating to the management of Internal Audit. Internal Audit staff and contractors shall report to the Internal Auditor, any situations where they feel their objectivity may be impaired. Similarly, the Internal Auditor should report any such situations to the CEO/GM and Committee of the relevant Council.

- 3.4. The work of Internal Audit does not relieve the staff of each Council from their accountability to discharge their responsibilities. All staff of each Council are responsible for risk management and the operation and enhancement of internal control. This includes responsibility for implementing remedial action endorsed by management following an internal audit *Internal Audit Guidelines, September 2010*.

#### 4 Goals and Scope of Work

- 4.1. The mission of Internal Audit is to provide independent, objective assurance and consulting services designed to add value and improve each Council's operations. It helps each Council accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes.
- 4.2. The staff of Internal Audit will aim to establish whether each Council's risk management framework, internal control systems and governance processes, as designed and represented by management, are adequate and operational in order to ensure the following:
- The risk management framework clearly identifies significant risks and that appropriate risk management strategies are in place and functional.
  - Integrity and reliability of significant financial, managerial and operating information in supporting effective decision-making.
  - Activities of employees conform to Council policies, standards, procedures, and applicable laws and regulations.
  - Resources are acquired economically, used efficiently and adequately protected.
  - Council's strategic objectives and programs as set out in the Integrated Planning and Reporting suite of documents are achieved and that significant changes in the regulatory environment are promptly addressed.
  - Quality assurance and continuous improvement are embedded in each Council's internal control process.
  - Special investigations as may be directed by a Committee and/or CEO/GM of each Council from time to time are in line with the provisions of this Charter.

4.3. The scope of work may include:

- **Assurance services** – objective examination of evidence for the purpose of providing an independent assessment on risk management, control, or governance processes for each Council. Examples may include financial, performance, operational, compliance, system security, and due diligence engagements.
- **Consulting services** – advisory and related client service activities, the nature and scope of which are agreed with the respective Council and which are intended to add value and improve the organisation’s governance, risk management, and control processes without the internal auditor assuming management responsibility. Examples include counsel, advice, facilitation and training.

## 5 Accountability and Reporting

The Internal Auditor, in the discharge of their duties, shall be accountable to the CEO/GM and Committee of each Council to:

- a) Provide annually an assessment on the adequacy and effectiveness of each Council’s processes for controlling its activities and managing its risks in the areas set forth under the goals and scope of work above.
- b) Report significant issues related to the processes for controlling the activities of the Councils and their affiliates, including potential improvements to those processes, and provide information concerning such issues through resolution.
- c) Provide information periodically on the status and results of the Annual Internal Audit Plan and the sufficiency of Internal Audit resources.
- d) Co-ordinate with and provide oversight of other control and monitoring functions (risk management, compliance, security, legal, ethics, environmental, process improvement and external audit).

## 6 Key Result Areas

The Internal Auditor and staff of Internal Audit have responsibility to:

- 6.1. Develop a flexible Annual Internal Audit Plan using appropriate risk-based methodology, including any risks or control concerns identified by management, and submit that Plan to the relevant Council’s Committee for review and approval.



- 6.2. Implement the Annual Internal Audit Plan, as approved, including and as appropriate, any special tasks or projects requested by the CEO/GM and/or Committee of each Council.
- 6.3. Maintain sufficient knowledge, skills, experience, and professional certifications to meet the requirements of this Charter.
- 6.4. Establish a quality assurance program by which the Internal Auditor assures the operation of internal auditing activities.
- 6.5. Perform consulting services, beyond internal auditing's assurance services, to assist management of each Council in meeting its objectives. Examples may include facilitation, process design, training, and advisory services.
- 6.6. Evaluate and assess significant merging/consolidating functions and new or changing services, processes, operations and control processes coincident with their development, implementation, and/or expansion.
- 6.7. Issue quarterly reports to the Committee and management of the relevant Council summarising results of Internal Audit activities undertaken in the period.
- 6.8. Keep the Committee of each Council informed of emerging trends and successful practices in internal auditing.
- 6.9. Provide a list of significant measurement goals and results to the Committee of each Council.
- 6.10. Assist in the investigation of significant suspected fraudulent activities within the relevant Council and notify the CEO/GM and the Committee of the results.
- 6.11. Consider the scope of work of the external auditors and regulators, as appropriate, for the purpose of reducing duplication of effort and co-coordinating audit activity thereby providing optimal audit coverage to each Council at a reasonable overall cost.
- 6.12. Ensure that Internal Audit operations comply with International Standards, Code of Ethics and Core Principles of the Professional Practice of Internal Auditing issued by The Institute of Internal Auditors; The Auditing and Assurance Standards Board and where relevant, comply with The Statement on Information Systems Auditing Standards issued by the Information Systems and Control Association.
- 6.13. Keep up to date with emerging trends in local government

### 7 Limitations

7.1. The Internal Auditor and staff of Internal Audit are not authorised to:

- Perform any operational duties for either Council or their affiliates.
- Initiate or approve accounting transactions external to Internal Audit.
- Direct the activities of any Council employee not employed by Internal Audit, except to the extent such employees have been appropriately assigned to internal auditing teams or to otherwise assist Internal Audit.

### 8 Performance Standards

The following attributes are expected of Internal Audit:

- Be skilled in dealing with people and in communicating audit issues effectively.
- Undertake appropriate continued professional development to maintain technical competence.
- Exercise due professional care in performing internal audit engagements.
- Manage instances of perceived or actual conflict of interests in line with the provisions of the Institute of Internal Auditors Standards and Code of Ethics.

### 9 Review of Internal Audit Function

- The Internal Auditor will arrange for a periodic independent review of the internal audit function, at least once every 4 years, of the efficiency and effectiveness of the operations of the internal audit function. The results of the reviews will be reported to the respective Council Committee who will provide advice to Council and the CEO/GM on those results.

### 10 Review of the Internal Audit Charter

The Internal Auditor shall annually review the Internal Audit Activity Charter in accordance with each Council's standard approach to updating operational policies to ensure it remains up-to-date and reflects the current scope of internal audit work. Any proposed amendments shall be presented to the respective Council Committee for approval and recommendation to the CEO/GM of each Council for endorsement.

**Bathurst Regional Council**

**N O M I N A T I O N F O R M**

***ELECTION OF MEMBER TO UPPER  
MACQUARIE COUNTY COUNCIL***

**Note:** This nomination is to be made by any Councillor, and is not valid unless the nominee has indicated consent, in writing, to nomination.

This nomination is to be delivered or sent to the General Manager.

We, the undersigned Councillor(s), nominate:

-----

as a Member for the Upper Macquarie County Council, for the period of Council.

**SIGNED:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**DATE:** \_\_\_\_\_

**I:** \_\_\_\_\_

(Insert name of person proposed for nomination)

hereby consent to such nomination.

**SIGNED:** \_\_\_\_\_

(Signature of person proposed for nomination)

**DATE:** \_\_\_\_\_



## Sydney District and Regional Planning Panels Code of Conduct

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August 2020



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## Introduction

This Code of Conduct (Code) applies to all members of the Sydney District and Regional Planning Panels (panels), including:

- chairs
- state appointed members
- council nominees
- alternates acting for panel members.

The Code outlines the standards of conduct expected of panel members. It is the personal responsibility of each panel member to comply with this Code. The Code will be kept under review and will be subject to changes that may be required to reflect the experience of the implementation and operation of the panels.

## Purpose of the Code

This Code sets out the minimum requirements of behaviour for panel members in carrying out their functions. The Code has been developed to assist panel members to:

- a. understand the standards of conduct that are expected while carrying out the functions of a panel member
- b. act honestly, ethically and responsibly
- c. exercise a reasonable degree of care and diligence
- d. act in a way that enhances public confidence in the integrity of the role of panels in the planning system.

As public officials, members of the panels have a particular obligation to act in the public interest. All members of the panels must:

- comply with the ethical framework for the public sector set out in the *Public Sector Employment and Management Act 2002* and the *Government Sector Employment Act 2013*
- have a clear understanding of their public duty and legal responsibilities
- act for a proper purpose and without exceeding their powers.

## Application of the Model Code of Conduct for Local Councils in NSW (Model Code)

Councils are required under the *Local Government Act 1993* to adopt a code of conduct. Such codes must incorporate the provisions of the 'Model Code' prescribed under the Local Government (General) Regulation 2005.

Council's adopted code applies to, amongst others, councillors, the general manager, council staff and members of council committees. The Model Code does not apply to planning panel members. However, parts of the Model Code have been used to assist in the development of this Code, along with other relevant codes of conduct applying to members of state boards and other statutory bodies.

It is recognised that councillors and council staff may undertake functions as a member of a planning panel separate to their ordinary functions as a councillor or member of council staff. When exercising functions **as a panel member**, councillors and council staff must ensure that they comply with this Code.



Council staff are not subject to this Code where they are responsible for:

- dealing with development matters under the *Environmental Planning and Assessment Act 1979* (EP&A Act),
- preparing assessment reports, and/or
- assisting a planning panel in the exercise of its functions.

The Model Code requires that council staff act lawfully, ethically and fairly. In relation to development decisions, council staff must ensure decisions are properly made and parties involved in the development process are dealt with fairly. People must not use their position to influence other council officials in the performance of their duties or to obtain a private benefit for themselves or for somebody else.

## Code of Conduct

### 1. Key principles

#### Integrity

- 1.1. You must not place yourself under any financial or other obligation to any individual or organisation that might be reasonably thought to influence you in the exercise of your functions as a planning panel member.

#### Leadership

- 1.2. You have a duty to promote and support the key principles of this Code by demonstrating leadership and maintaining and strengthening the public's trust and confidence in planning panels and their role in the planning system.

#### Selflessness

- 1.3. You have a duty to make decisions in the public interest. You must not make a decision or take action that causes or results in you obtaining:
  - a financial benefit (including avoiding a financial loss), or
  - other benefits for yourself, your family, friends or business interests.

#### Impartiality

- 1.4. You should make decisions on merit and in accordance with your statutory obligations when carrying out your functions as a planning panel member.

#### Accountability

- 1.5. You are accountable to the public for your decisions and actions and should consider issues on their merits, taking into account the views of others.

#### Openness

- 1.6. You have a duty to be as open as possible about your decisions and actions.

#### Honesty

- 1.7. You have a duty to act honestly and in good faith for the proper purpose.

#### Respect

- 1.8. You must treat others with respect at all times.

### 2. General conduct obligations

#### General conduct

- 2.1. You must not conduct yourself in carrying out your functions as a planning panel member in a manner that is likely to bring the planning panel into disrepute. Specifically, you must not act in a way that:
  - a. contravenes the EP&A Act<sup>1</sup>
  - b. is improper or unethical

---

<sup>1</sup> A reference to the *Environmental Planning and Assessment Act 1979* (EP&A Act) includes a reference to the *Environmental Planning and Assessment Regulation 2000*.

- c. is an abuse of power
  - d. causes, comprises or involves intimidation, harassment or verbal abuse, or
  - e. causes, comprises or involves discrimination, disadvantage or adverse treatment.
- 2.2. You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions as a planning panel member, having regard to the statutory obligations under the EP&A Act.

## Fairness and equity

- 2.3. You must consider issues consistently, promptly, conscientiously and fairly.
- 2.4. 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.

## Making decisions and taking actions

- 2.5. You must ensure that decisions and actions are reasonable, fair and for the proper purpose and that parties involved in the development process are dealt with fairly.
- 2.6. You must ensure that no action, statement or communication between yourself and others (such as applicants, objectors, councillors and members of the public) conveys any suggestion of willingness to provide improper concessions or preferential treatment, or suggests that you are not bringing an open mind to the decision.
- 2.7. You should attend all briefings, meetings and other business of the planning panel as far as is possible, and allow the necessary time to prepare.

## 3. Conflicts of interests

### General

- 3.1. A conflict of interests exists where there is an actual, potential, or reasonably perceived conflict between a panel member's private interests or other duties, and the impartial performance of their functions as a planning panel member.
- An 'actual' conflict of interests is where there is a direct conflict between a member's duties and responsibilities and their private interests or other duties.
- A 'potential' conflict of interests is where a panel member has a private interest or other duty that could conflict with their duties as a panel member in the future.
- A 'reasonably perceived' conflict of interests is where a person could reasonably perceive that a panel member's private interests or other duties are likely to improperly influence the performance of their duties as a panel member, whether or not this is in fact the case.
- 3.2. Panel members must avoid or appropriately manage any conflicts of interests. The onus is on the individual panel member to identify a conflict of interests and take appropriate action.
- 3.3. Any conflicts of interests must be managed to uphold the probity of planning panel decision making. When considering whether or not a conflict of interests exists, panel members should consider how others would view their situation.
- 3.4. Private interests can be of two types: pecuniary or non-pecuniary.
- 3.5. A conflict of duties may also constitute a conflict of interest.

## Management of conflicts

- 3.6. Where possible, the source of the conflict of interest should be removed. For example, by way of divestment of the interest / issue that is creating the conflict such as the sale of shares, or by severing the connection, for example resignation from a position in another organisation giving rise to the conflict or ceasing to provide services.
- 3.7. The overriding principle for managing conflicts of interests is early and complete disclosure to the chair. The onus for this disclosure lies with individual planning panel members.
- 3.8. Where the panel chair considers that an actual, potential or reasonably perceived conflict of interests has not been disclosed or appropriately managed by a panel member, the conflict may be considered by the chair, and wider panel if considered necessary after hearing submissions from the panel member. The chair will make a decision as to how to manage the situation, which can include determining that the panel member should step aside from the panel for that matter, and record reasons for that decision. In making the decision, the chair is to have regard to upholding the reputation of the planning panel. If a panel member fails to step aside where requested their comments or vote is not to be considered in the determination of the matter.
- 3.9. When the conflict of interest arises as a result of an interest of the chair, the deputy chair is to assume the chair's leadership role in the management of the conflict process.

## Pecuniary interests

- 3.10. 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<sup>2</sup>.
- 3.11. 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 that person might make<sup>3</sup>.
- 3.12. A member has a pecuniary interest in a matter if the pecuniary interest is the interest of the member, the member's spouse or de facto partner or a relative<sup>4</sup> of the member, or a partner or employer of the member, or a company or other body of which the member, or a nominee, partner or employer of the member, is a member.
- 3.13. The obligation on planning panel members with respect to pecuniary interests are set out in clause 27 of Schedule 2 of the EP&A Act (attached at **Appendix A**). All planning panel members must comply with the requirements set out in this provision. In particular:
  - a. If a member has a pecuniary interest in a matter being considered or about to be considered at a meeting of a planning panel and the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter, the member must, as soon as possible after the relevant facts have come to the member's attention, disclose the nature of the interest at or before a meeting of the planning panel.
  - b. After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the planning panel otherwise determines:

<sup>2</sup> The term 'pecuniary interests' adopted by this Code is based on the definition of that term in s.442(1) of the *Local Government Act 1993*.

<sup>3</sup> See s.442(2) *Local Government Act 1993* or if it is an interest referred to in s.448(a), (b), (e) or (g) of the *Local Government Act 1993*.

<sup>4</sup> The term 'relative' adopted by this Code is the definition of that term under s 3 of the *Local Government Act 1993*.

- be present during any deliberation of the panel with respect to the matter, or
- take part in any decision of the panel with respect to the matter.

## Non-pecuniary interests

- 3.14. A non-pecuniary interest is a private or personal interest that a person has that may, for example, be based on a family or personal relationship, membership of an association, society or trade union or involvement or interest in an activity which may include an interest of a financial nature<sup>5</sup>.
- 3.15. You should consider possible non-pecuniary interests that may arise while carrying out your duties as a planning panel member. Where possible, the source of potential conflict should be removed.
- 3.16. However, where this is not possible, if a member has a non-pecuniary interest in a matter and the interest appears to raise a conflict with the proper performance of the member's duties, the member must follow the procedures set out in clause 27 of schedule 2 of the EP&A Act in the same manner as if the interest was a pecuniary interest.

## Conflicts of duties

- 3.17. A conflict of duties is a conflict between competing and incompatible public duties. For example, a conflict of duties arises where public officials hold more than one official position which requires them to address competing objectives or interests.
- 3.18. Panel members must ensure that any employment, business or other roles or activities they engage in will not:
  - a. conflict with, impair or otherwise prevent the full exercise of their functions as a planning panel member
  - b. involve using confidential information or resources obtained through their role as a planning panel member, or
  - c. discredit, bring into disrepute or disadvantage the reputation of the planning panel.
- 3.19. The following situations are considered to represent a conflict of duties for panel members (however this list is not exhaustive):
  - a. members who have current or previous involvement in a specific project, or site, that is subject of a DA for regional development, or a planning proposal that is subsequently reviewed by a planning panel, for example as a consultant,
  - b. councillor members where they have deliberated or voted on, or otherwise considered, a matter, and/or been present when such consideration is undertaken, in their role at council and that matter, or a related matter, subsequently comes before the panel. Matters which are considered to be related to a panel matter include, but are not limited to:
    - a planning proposal for the site
    - a voluntary planning agreement for the development or planning proposal
    - a Masterplan for the development or planning proposal
    - a Plan of Management for the development
    - property matters related to the site, including leases, licences, purchase of land, disposal of land and management of lands
    - legal matters related to the site, development or proposal

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<sup>5</sup> The term 'non-pecuniary interest' as adopted by this Code is based on the meaning of that term under the Local Government Model Code of Conduct.

- consideration on whether to make a submission to the panel on a DA for regional development
- c. council staff members that have:
- presented, or been present at a council meeting; that considers an assessment report for the planning panel, or a related matter as per section 3.19(b)
  - been directly or indirectly involved in the preparation of the assessment report for the planning panel
  - approved agenda items for reporting to council meetings or have been a signatory to correspondence in relation to matters that may come before a panel.
- 3.20. Members of a particular planning panel will have a close working relationship with each other. Therefore, to avoid a perception of bias, a planning panel member must not represent an applicant, council or submitter at a planning panel meeting for a planning panel of which they are a permanent member or have been used regularly as an alternate member. A planning panel chair must not represent an applicant, council or submitter at any planning panel meeting.
- 3.21. A planning panel member may not undertake any employment, business or other roles or activities, in relation to a DA, planning proposal or development site for which the member has participated in making a determination on as a panel member, for at least two (2) years following the determination.
- 3.22. Councillors who have deliberated or voted on a matter in their role at council and that matter, or a related matter, subsequently comes before the panel, are to stand aside from their place on the panel, and allow council's nominated alternative member to take their place, to avoid any perceptions of bias or pre-judgement.
- 3.23. A councillor must stand aside from their place on the panel if suspended as a councillor for any reason (including under sections 438I, 438W 440C, 440I, 482 or 482A of the *Local Government Act 1993*), for the period of that suspension. This is because the roles and responsibilities of a panel member are so similar to that of a councillor that the continuation of the suspended councillor on the panel during the period of his or her suspension would adversely affect the reputation of the panel.
- 3.24. A councillor must stand aside from their place on the panel if dismissed as a councillor due to misconduct under section 440B, 482 or 482A of the *Local Government Act 1993*. This is because the roles and responsibilities of a panel member are so similar to that of a councillor that the continuation of the dismissed councillor on the panel would adversely affect the reputation of the panel.
- 3.25. A conflict of duties may arise for council staff<sup>6</sup> (including general managers and other senior staff) who are nominated to sit as a member of the planning panel. In selecting its members to a planning panel, council should have regard to the conflict of duties that may be created for a person nominated to the planning panel if they were in any way responsible for or involved in the assessment and recommendation of a matter to be determined by the planning panel, approving agenda items for reporting to council meetings, or being signatory to correspondence in relation to matters that may come before a panel.
- Council employees (including general managers and other senior staff) who are nominated to sit as a member of the planning panel must ensure that appropriate measures are in place to manage potential conflicts and ensure they will be able to comply with the requirements of this Code<sup>7</sup>.

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<sup>6</sup> A reference in this section to council 'staff' includes a reference to council contractors or consultants.

<sup>7</sup> In particular Part 6 of the Code.

## Political Donations

- 3.26. Planning panel members should be aware that political contributions or donations may give rise to a pecuniary or non-pecuniary interest. It is the responsibility of planning panel members to determine in each instance whether such an interest arises and whether the provisions of this Code and clause 27 of schedule 2 of the EP&A Act applies.
- 3.27. Where a planning panel member makes a disclosure under clause 27(1)(b) of schedule 2 to the EP&A Act with respect to an interest which arises because of a political donation, the planning panel is required to take this into consideration in determining under clause 27(6) whether it is appropriate for the member to be present during any deliberations or take part in any decision with respect to the matter.

## 4. Recording declarations of interest

- 4.1. Planning panel members are required to complete and sign a declaration of interest form in relation to each matter which is considered by the panel, either before, or at the commencement of consideration of the matter.
- 4.2. Where any pecuniary or non-pecuniary interest in a matter before the planning panel has been disclosed by a member, whether declared before or at the commencement of the panel meeting, this will be noted in the panel's decision record, even when the member is not in attendance.

Records of all panel briefings and meetings are made available on the planning Panels website.

- 4.3. As a member of a government board or committee, all planning panel members are also required to adhere to the Department of Premier and Cabinet's Guidelines 'Conduct Guidelines for Members of NSW Government Boards and Committees' ("the DPC Guidelines").

In accordance with the DPC Guidelines, planning panel members are required to disclose interests which include positions and pecuniary interests in corporations, partnerships or other businesses that may be relevant to the activities of the planning panel.

These declarations will be required to be made by panel members on an annual basis. Taken together, schedule 2 of the EP&A Act and the requirements of the DPC Guidelines ensure that the pecuniary interest disclosure requirements for planning panel members are the same as those for local government councillors.

- 4.4. A register of declarations made by planning panel members, will be maintained by the Planning Panels Secretariat (secretariat), in accordance with the DPC Guidelines. Upon request, the register of declarations will be available for inspection at the secretariat during normal office hours.

## 5. Personal benefit

### Personal dealings with council

- 5.1. Planning panel members may have reason to have private dealings with a council that is within the region where they are a planning panel member (for example as a ratepayer). Planning panel members must not expect or request preferential treatment in relation to any matter in which they have a private interest because of their role as a planning panel member. Planning panel members must avoid any action that could lead members of the public to believe that they are seeking preferential treatment.

## Gifts and benefits

- 5.2. Planning panel members 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. accept any gift or benefit of more than token value, or
  - e. accept an offer of money, regardless of the amount.
- 5.3. A gift or benefit is any item, service, prize, hospitality or travel which has an intrinsic value and/or value to the recipient, a member of their family, relation, friend or associate.
- 5.4. Generally speaking token gifts and benefits include:
  - a. free or subsidised meals, beverages or refreshments provided in conjunction with:
    - i. the discussion of matters before the planning panel
    - ii. conferences, or
    - iii. social functions organised by groups.
  - b. invitations to and attendance at local social, cultural and sporting events,
  - c. gifts of single bottles of reasonably priced alcohol at end of year functions and public occasions, and
  - d. ties, scarves, coasters, tie pins, diaries, chocolates or flowers.
- 5.5. Gifts and tokens that have more than a token value include, but are not limited to, tickets to major sporting events, corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.
- 5.6. As a general rule, any gift from an applicant, objector or associate of an applicant or objector in relation to a matter to be determined by a planning panel would fall into a category referred to in paragraph 5.2(c) and therefore should not be accepted.
- 5.7. The planning panels secretariat is to maintain a register of gifts for each planning panel to ensure the receipt and disposal of gifts is conducted in an open and transparent manner. When offered a gift or benefit, planning panel members must inform the secretariat of the following information for the purposes of making a recording on the register of gifts:
  - the person who made the offer and the date on which the offer was made
  - whether or not you accepted the gift/benefit
  - whether the gift or benefit was allocated to another person or body
  - the value of the gift or benefit.

Planning panel members should also advise the planning panel chair of any such notification to the planning panels secretariat.

## 6. Relationship between planning panel members, council and council staff

### Obligations of planning panel members

- 6.1. Section 2.27 of the EP&A Act provides that a planning panel is entitled:



- a. to have access to, and to make copies of and take extracts from records of the council relevant to the exercise of the planning panel's functions
- b. to the use of staff and facilities of the council in order to exercise the planning panel's functions
- c. to any assistance or action by the council for the purposes of exercising the planning panel's functions.

All such requests for assistance will be made by the planning panel chair to the general manager (or such other staff member nominated by the general manager).

- 6.2. Planning panel members have a responsibility to promote and support an effective and co-operative working relationship with the council, general manager and council staff and contractors.

## Inappropriate interactions

- 6.3. Planning panel members must not engage in inappropriate interactions when exercising functions as a planning panel member.
- 6.4. In relation to council staff<sup>8</sup>, planning panel members must not:
  - a. approach, make requests of, make enquiries or issue instructions to council staff other than through the planning panels secretariat and in accordance with this Code
  - b. be overbearing or threatening to council staff
  - c. make personal attacks on council staff in a public forum
  - d. direct or pressure council staff in the performance of their work or recommendations they make, or
  - e. influence or attempt to influence staff in the preparation of assessment reports or other information to be submitted to the planning panel.
- 6.5. If a planning panel member is approached by any person about a development application that is to be determined by the planning panel, the planning panel member must not discuss the development.
- 6.6. The planning panels Operational Procedures recognises that there may be some circumstances where it is appropriate for the planning panel to be briefed by the applicant with council staff in attendance. Where this occurs, a record of the meeting, including attendees and matters discussed, will be made publicly available.

However, individual members of the planning panel must not hold private meetings, briefings, site visits or discussions in respect of the matter.
- 6.7. Where meetings, briefings or site visits occur panel members should not express any views that would indicate pre-judgement of the matter.

## 7. Relationship between planning panel members and others

- 7.1. Planning panel members must adhere to the Key Principles and General Conduct Obligations contained in this Code when dealing with others, including council staff, councillors, Department of Planning, Industry and Environment staff and the secretariat.

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<sup>8</sup> A reference in this clause to council 'staff' includes a reference to council contractors or consultants.

## 8. Protecting and using information

- 8.1. Information must be handled in accordance with section 10.5 of the EP&A Act.
- 8.2. In addition to the obligations under section 10.5 of the EP&A Act, planning members must:
  - a. protect confidential information,
  - b. only release confidential information if you have authority to do so,
  - c. only use confidential information for the purpose it is intended to be used,
  - d. not use confidential information gained through your position as a planning panel member for the purpose of securing a private benefit for yourself or for any other person,
  - e. not use confidential information with the intention to cause harm or detriment to the planning panel or any other person or body, and
  - f. not disclose any information discussed during a confidential session of a planning panel.
- 8.3. When dealing with personal information, planning panel members must comply with the *Privacy and Personal Information Protection Act 1998*.

## 9. Use of public resources

- 9.1. Planning panel members may be provided with equipment and other resources to perform planning panel functions. All such resources are to be used only for planning panel purposes and in accordance with any guidelines or rules about the use of those resources.

## 10. Public comment/media

- 10.1. The planning panel chair is responsible for speaking to the media on behalf of the planning panel, to allow its decisions to be properly represented and communicated. The chair can authorise another planning panel member to speak to the media on behalf of the planning panel at any time. Other non-authorised members can speak to the media about planning panel matters however, in doing so, they do not represent the views of the planning panel.

## 11. Lobbying

- 11.1. All planning panel members must comply with the *NSW Lobbyists Code of Conduct* published on the Department of Premier and Cabinet's website ([www.dpc.nsw.gov.au](http://www.dpc.nsw.gov.au)). The Lobbyists Code regulates contact between registered lobbyists and Government representatives and *M2014-13- NSW Lobbyists Code of Conduct* restricts the circumstances in which a lobbyist can be appointed to a NSW Government board or committee.
- 11.2. Members of the planning panel have a responsibility to consider the Lobbyists Code and declare if they could potentially be considered a lobbyist. The application of the Lobbyists Code then takes precedence for further action and decisions and would be monitored by the chair.

## 12. Breaches of this Code

### Reporting suspected breaches

- 12.1. Planning panel members are required to report suspected breaches of the Code to the planning panel chair or the Minister.
- 12.2. Any other person may report a suspected breach of the Code under the planning panels' Complaints Handling Policy.

### Reporting possible corrupt conduct

- 12.3. Planning panel members are subject to the *Independent Commission Against Corruption Act 1988* and the *Ombudsman Act 1974*. Planning panel members are urged to report suspected corrupt conduct, as well as maladministration and serious and substantial waste of public resources.
- 12.4. The *Public Interest Disclosures Act 1994* provides protection to public officials who voluntarily report suspected corrupt conduct. Access to a Public Interest Disclosure Officer can be arranged through the Department of Planning, Industry and Environment. The planning panel chair is under a duty to report to the Independent Commission Against Corruption (ICAC) any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct<sup>9</sup>.
- 12.5. Planning panel members, or any other persons, can also report directly to the following investigative bodies:
  - a. Corrupt conduct should be reported to the Independent Commission against Corruption (ICAC)<sup>10</sup>,
  - b. Maladministration<sup>11</sup> should be reported to the NSW Ombudsman, and
  - c. Serious and substantial waste of public money should be reported to the NSW Auditor General.

### Handling of suspected breaches

- 12.6. Suspected breaches of the Code will be handled in accordance with the planning panels' Complaints Handling Policy.
- 12.7. The planning panel chair may take such steps as s/he thinks appropriate to investigate and take action in respect of the alleged breach.
- 12.8. A person who is alleged to have breached the Code must be given:
  - a) the full particulars of the alleged breach<sup>12</sup>
  - b) an opportunity to respond to the allegations
  - c) the right to have a legal or other representative present during any meetings/discussions in respect of the matter.
- 12.9. Serious breaches of the Code may be referred to the Minister in respect of state members or the relevant council with respect to council nominees. Proven breaches of the Code may warrant removal from office.
- 12.10. The Minister may remove a planning panel state member from office at any time and without notice. The Minister must provide a written statement of the reasons for removing the member from office and make that statement publicly available.

<sup>9</sup> Section 11, ICAC Act.

<sup>10</sup> Section 10 of the ICAC Act allows any person to make a complaint to the Independent Commission Against Corruption about a matter that concerns or may concern corrupt conduct.

<sup>11</sup> Maladministration is defined in s 11(2) of the *Public Interest Disclosures Act 1994*

<sup>12</sup> These particulars should not include the details of the person who made the allegation.

- 12.11. The relevant council may remove its nominee/s from office at any time and without notice. The general manager of the applicable council must provide a written statement of the reasons for removing the member from office and make that statement publicly available. The council must also notify the planning panels secretariat.
- 12.12. The Minister may remove any member if the Independent Commission Against Corruption recommends that consideration be given to the removal of the member because of corrupt conduct by the member.

### 13. Acknowledgement of this Code

- 13.1. On appointment all planning panel members are required to acknowledge in writing that they will abide by the principles, obligations and requirements of this Code.

## Appendix A

### Extract from Schedule 2 of the *Environmental Planning and Assessment Act 1979*

#### 27 Disclosure of pecuniary interests

- (1) If:
- (a) a member has a pecuniary interest in a matter being considered or about to be considered at a meeting of the planning body
  - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the planning body.
- (2) A member has a pecuniary interest in a matter if the pecuniary interest is the interest of:
- (a) the member, or
  - (b) the member's spouse or de facto partner or a relative of the member, or a partner or employer of the member, or
  - (c) a company or other body of which the member, or a nominee, partner or employer of the member, is a member.
- (3) However, a member is not taken to have a pecuniary interest in a matter as referred to in subclause (2) (b) or (c):
- (a) if the member is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
  - (b) just because the member is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or
  - (c) just because the member 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 member has no beneficial interest in any shares of the company or body.
- (4) A disclosure by a member at a meeting of the planning body that the member, or a spouse, de facto partner, relative, partner or employer of the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
  - (b) is a partner, or is in the employment, of a specified person, or
  - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (5) Particulars of any disclosure made under this clause must be recorded by the regional panel in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the planning body.
- (6) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the planning body otherwise determines:
- (a) be present during any deliberation of the panel with respect to the matter, or
  - (b) take part in any decision of the panel with respect to the matter.

- (7) For the purposes of the making of a determination by the planning body under subclause (6), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the panel for the purpose of making the determination, or
  - (b) take part in the making by the panel of the determination.
- (8) A contravention of this clause does not invalidate any decision of the planning body.
- (9) This clause extends to a council nominee of a Sydney district or regional planning panel, and the provisions of Part 2 (Duties of disclosure) of Chapter 14 of the *Local Government Act 1993* do not apply to any such nominee when exercising functions as a member of the panel.



# DELEGATIONS REGISTER

## **MAYOR**

Pursuant to the Local Government Act and Regulations, and any expressed policy or direction of Council, that Council in accordance with the provisions of Section 377 of the Local Government Act 1993 and every other enabling statutory power, delegates to the person who occupies the position of Mayor, to perform on behalf of Council the following powers, authorities, duties or functions.

### **1. Council Seal**

Authorise the Mayor to be the necessary witness to documents requiring Council's seal.

### **2. Media Relations**

To make media statements or releases on behalf of Council.

### **3. Policy Making**

To exercise in cases of necessity, the policy-making functions of the governing body of the Council between meetings of the Council.

### **4. Correspondence**

To sign correspondence on behalf of the Council.

### **5. Urgent Works**

To authorise any work which is deemed urgent at a cost not exceeding \$5,000 provided that such expenditure is reported to the council at its next Ordinary Meeting.

### **6. Complaints Against the General Manager**

The Mayor shall have the power to investigate substantive written complaints against the General Manager and shall, if warranted, report to the next Ordinary Meeting of Council.

### **7. Attendance at Conference, Seminars and functions by Councillors**

The Mayor may authorise a Councillor to attend a conference, seminar or function within and outside the Council area. (Conference means conferences, seminars, congresses, forums, workshops, courses, meetings, deputations, information and training sessions events, etc, held within Australia, related to the industry of local government - See Policy Manual : Governance - Payment of Expenses and



Provision of Facilities for Councillors).

### **8. Day-to-Day Oversight and Liaison with the General Manager**

The Mayor shall be responsible for the day-to-day oversight and liaison with the General Manager including, but not limited to:

- . approving leave.
- . approving expenses incurred.
- . managing complaints about the General Manager.

### **DEPUTY MAYOR**

#### **1. Council Seal**

Authorise the Deputy Mayor to be the necessary witness to documents requiring Council's seal.

#### **2. In the absence of the Mayor**

In the absence of the Mayor and subject to compliance with the requirements of the Local Government Act 1993, and any expressed policy or direction of the Council, the Council pursuant to the provisions of Section 377 of the Act, and every other enabling statutory power, delegates to the person who occupies the position of Deputy Mayor to exercise and perform on behalf of the Council the powers, authorities, duties and functions of the Mayor including the powers, authorities, duties and functions which the council has delegated by this Instrument to the Mayor.

### **LOCAL TRAFFIC COMMITTEE**

Pursuant to the delegation of powers from the Transport for New South Wales, the authority for regulation of traffic and traffic control signs on public roads. This authority is limited to the powers, authorities, duties and functions that are specified in the TfNSW Instrument of Delegation to Council, from the TfNSW.

### **AUDIT AND RISK MANAGEMENT COMMITTEE**

The Audit & Risk Management Committee is granted delegated authority by Council to carry out its duties and responsibilities as defined in its charter. The Audit & Risk Management Committee has delegated authority to approve investigations into any matters within its scope of responsibility.

- Resolve any disagreements between management and the auditor regarding financial reporting (subject to confidentiality considerations).
- Pre-approve all auditing and non-audit services
- After due consultation with the General Manager, retain independent counsel, accountants, or others to advise the committee or assist in the conduct of an investigation.

- Meet with Council management, external auditors, or outside counsel, as necessary.
- Bathurst Regional Council acknowledges that professional independence and objectivity are key attributes of an efficient and effective Audit & Risk Management Committee. The Bathurst Regional Council and the General Manager are therefore committed to uphold and guarantee the professional independence and objectivity of the Audit & Risk Management Committee.

### **CENTRAL NSW JOINT ORGANISATION (CNSWJO)**

To authorise CNSWJO to call tenders for the supply of goods and services to Bathurst Regional Council.

### **NSW RURAL FIRE SERVICE**

That Council delegate to the Manager, Chifley Zone, NSW Rural Fire Service the authority to approve payments and expenditure up to \$1,000.

### **GENERAL MANAGER**

The General Manager's powers to act on behalf of Council are given through power of attorney, his/her employment contract and delegations made by Council pursuant to Section 377 of the Local Government Act 1993.

### **Power of Attorney**

Council has appointed its General Manager as its Attorney to act for the Council to execute instruments resulting from resolutions of meetings from time to time by Council.

The General Manager of the Council for the time being and from time to time holding such office to be the Attorney of the Council for and in the name of and on behalf of the Council to sign any document which the Council would be required to sign for the purpose listed in the schedule.

### The Schedule

- Agreement for the sale or purchase of any land or other form of property
- The transfer of any land
- The acceptance of the transfer of any land
- The mortgage or other form of security of or over any property
- Loan Agreement documents
- The acceptance of any mortgage or other form of security
- The release of any mortgage or other form of security whether registered or unregistered (including any withdrawal of caveat or vacation of causes, writs and orders)
- Any plan of subdivision of land in which the Council has an interest including plan accepting a dedication of land for any purpose
- Any instrument creating easements over land or releasing varying or modifying any such easement
- The consent to the subdivision of land which is subject to a mortgage or other form of security in favour of the Council
- Consent to the grant of any easement and/or covenant affecting land which is the subject of a mortgage or other form of security in favour of the Council

- The lease of any land or other property
- Consent to the assignment of the lease of any property
- Surrender of the lease of any property
- Guarantees and indemnities by the Council
- Agreements for the provision of services by the Council
- Joint Venture agreements
- Licences for the use of any property or to permit any activity
- Deposit of money with any financial institution
- Granting and accepting options in respect of the acquisition or sale of any property whether real or personal or corporeal or incorporeal
- To create, release, vary or modify any restriction or covenant affecting land

### **Contracts**

The General Manager, Director Corporate Services & Finance, Director Engineering Services, Director Cultural & Community Services, Director Environmental Planning & Building Services, are employed under contracts that are performance based.

The legislative requirements for Council to have a contract with the General Manager results in delegations being included under schedule B of the contract of employment as well as by resolution under the Local Government Act 1993.

### **Australian Fossil & Mineral Museum (Home of the Somerville Collection)**

Pursuant to an agreement between the Somerville Collection Board of Directors and the Council, the authority to:

- (a) oversee and carry out its day to day management and administration of the Australian Fossil & Mineral Museum
- (b) appoint a Company Secretary on a needs basis for the Somerville Collection, subject to the appointment being ratified at a subsequent meeting of the Somerville Collection Board.

### **Delegation**

Pursuant to the provisions of the Local Government Act 1993, and any expressed policy or direction of Council, that Council in accordance with the provisions of Section 377 of the Local Government Act, 1993 and every other enabling statutory power, delegates to its General Manager authority to exercise and to perform on behalf of the Council, all necessary powers, authorities, duties and functions, including but not limited to:

#### Corporate and Executive Powers

1. To carry on the regular services and operations of the Council within the sums voted by the Council for expenditure thereon and in accordance with any resolution of Council. To control and direct the staff of the Council.
2. To carry on the regular services, functions and operations of the Council in accordance with Local Government Act 1993, and other Legislation, Regulations and or policies of the Council.
3. To authorise any action necessary to comply with any policy or code of Council, any statutory requirements of the Local Government Act or Ordinance or any

other law, rule or regulation affecting Council.

4. To obtain legal advice from Council's Solicitors or Counsel where necessary.
5. To institute, conduct and defend legal proceedings with respect to Council's activities in all Courts, and instruct and engage Council's Solicitors and Counsel where necessary.
6. Be authorised to respond to notices in respect of such applications to the Licensing Court of NSW for Liquor licences for functions.
7. Authorise action to be taken in connection with any complaints or requests received.
8. Provide interpretation, counsel and advice on applicable Statutes, and Council's existing and proposed policies; and on statutory limitations during the deliberative and decision making process and provide to the Mayor, individual Councillors and senior staff, a common source of statutory and policy interpretation.
9. To affix the seal of Council to a document.
10. To prepare and lodge applications for grants provided such action is consistent with Council's Delivery Program and Operational Plan or Council Policy.
11. To authorise any works which is deemed urgent, provided that such expenditure is reported to the Council at its next Ordinary meeting, where funds have not been voted by Council.
12. Control communications internally and externally.
13. Rearrange and reorganise staff in all departments.
14. Sign legal contracts where Council has approved the making of that Contract.
15. Internal and external projection and promotion of Council's mantle of dignity, together with its image of efficiency and effectiveness.
16. To approve/refuse public access to Council books or documents which are required to be produced for any legal proceedings.
17. Be authorised to perform all necessary activities, to serve any notices or orders, undertake inspections, issue or refuse license and permits, to exercise the power of entry, to appoint appropriate staff as an authorised officer, authorised person, authorised Council employee, or impounding officer as the case may be, to exercise the functions of those positions under the relevant acts and associated regulations and to implement the provisions as relating to the operation of Council of the relevant Acts and associated regulations, including but not limited to:
  - Biodiversity Conservation Act 2016
  - Biosecurity Act 2015
  - Boarding Houses Act 2012
  - Building and Development Certifiers Act 2018

- Community Land Development Act 2021
- Companion Animals Act 1998
- Conveyancing Act 1919
- Crown Land Management Act 2016
- Dividing Fences Act 1991
- Environmental Planning and Assessment Act 1979
- Fire and Rescue NSW Act 1989
- Food Act 2003
- Government Information (Public Access) Act 2009
- Health Records & Information Privacy Act 2002
- Heritage Act 1977
- Impounding Act 1993
- Independent Commission Against Corruption Act 1988
- Interpretation Act 1987
- Land Acquisition (Just Terms Compensation) Act 1991
- Library Act 1939
- Local Government Act 1993
- Local Land Services Act 2013
- Motor Vehicle Sports (Public Safety) Act 1985
- Mount Panorama Motor Racing Act 1989
- Native Title (New South Wales) Act 1994
- Ombudsman Act 1974
- Plumbing and Drainage Act 2011
- Privacy and Personal Information Protection Act 1998
- Property and Stock Agents Act 2002
- Protection of Environment Operations Act 1997
- Public Health Act 2010
- Public Interest Disclosures Act 1994
- Real Property Act 1900
- Recreation Vehicles Act 1983
- Road Transport Act 2013
- Roads Act 1993
- Rural Fires Act 1997
- State Emergency and Rescue Management Act 1989
- State Emergency Service Act 1989
- Strata Schemes Development Act 2015
- Swimming Pools Act 1992
- Transport Administration Act 1988
- Unclaimed Money Act 1995
- Waste Avoidance and Resource Recovery Act 2001
- Water Management Act 2000
- Work Health and Safety Act 2011

### Corporate Services/Administration

- 101 To determine the matters which are to be included in the business papers, subject to the inclusion of the following items whenever they arise:
- (a) Reports on matters that cannot be determined under delegated authority;
  - (b) Reports required to be submitted under any Act or Ordinance;
  - (c) Reference to any deputations which the Council has agreed to receive;
  - (d) Matters requiring a determination of Policy;
  - (e) Reports directed by Council to be submitted;
  - (f) Matters essential for the Council's information;
  - (g) Matters requiring a vote;
  - (h) Matters or decisions of a potentially contentious nature, or involving a significant variation of Council's policy or standard practice relating to Development Applications.
- 102 Have charge of the records of Council, except as otherwise specifically provided, and be responsible for the recording, filing and safe keeping of such records.
- 103 Keep accurate, permanent records of all properties purchased, leased or sold by, or in the possession of Council.
- 104 Sign contracts for the sale and purchase price of land where Council has approved the sale or purchase price.
- 105 Authority to terminate any lease or rental agreement on any Council owned property where the terms of the lease have been breached, and accounts fall into arrears.
- 106 Sign all applications addressed to the Registrar General to record the Council as the registered owner of resumed land.
- 107 Authority to establish, maintain, alter or terminate leaseback agreements with employees.
- 108 To approve payment of expenses for elected members.
- 109 Authorise such employees time off for fighting fires within the boundaries of the Council area without loss of pay if properly called out by the Fire Brigade or the Rural Fire Service, where employees of the Council are members of the Voluntary Fire Brigade or Volunteer Rural Fire Service Brigades.
- 110 Review Council's exposure to risk on a continuing basis and effect any changes by way of insurance, retention or transfer to protect Council's interest.
- 111 To determine levels of public liability insurance required in accordance with Council's adopted policy.
- 112 The authority to exercise and perform on behalf of Council, all powers, authorities, duties, functions and matters in relation to Asset Management Initiatives applying to:

- (a) Public roads;
  - (b) Footpaths;
  - (c) Carparks;
  - (d) Parks, reserves, recreational facilities, gardens and cemeteries;
  - (e) Solid Waste Disposal Depot;
  - (f) Council owned and managed public buildings and facilities;
  - (g) Floodplain Management.
- 113 Be authorised to offer a reward for information leading to the conviction of people found vandalising Council property, and further that Council, without exception, takes all legal steps available to it to prosecute people found vandalising Council property.
- 114 Authority to exercise and perform on behalf of Council all functions, powers, authorities, duties and matters contained in Council's asset management program.
- 115 Authority to appoint alcohol and drug testing officers.
- 116 To adopt on behalf of council the Publication Guide required under Section 20 of the Government Information (Public Access) Act 2009.
117. To appoint a representative of Council as the Chairperson to the Local Emergency Management Committee in accordance with Section 28 of the State Emergency and Rescue Management Act 1989.
- 118 To appoint a Disclosures Coordinator for the purpose of the Public Interest Disclosures Act (1994)

### Finance

- 201 To authorise the payment of salaries and wages of the staff of the Council.
- 202 To authorise the purchase of goods, works and services and to obtain tenders for items over \$250,000.
- 203 To keep accounts of the Council and present to audit in accordance with the requirements made by or under the Local Government Act 1993 and regulations.
- 204 Determine the categorisation of each parcel of rateable land in accordance with Section 514 of the Local Government Act 1993.
- 205 Authorise financial transactions (excluding investments) on behalf of Council.
- 206 *This item is intentionally left blank*
- 207 To authorise the investment of surplus Council funds and sign such application and redemption documents as may be required.
- 208 To determine applications for reductions of rental charges for Council facilities in accordance with Council's policy.
- 209 To determine applications for pensioner rate reduction in accordance with the provisions of Section 575 of the Local Government Act 1993.

- 210 To take action at any time for recovery of unpaid rates and any other amounts owing to Council.
- 211 To order restriction or disconnection of premises if excess water accounts are not paid.
- 212 To approve applications for extension of time to pay accounts.
- 213 To lay information, issue summonses, swear statements and affidavits for enforcing default judgements and institute any other legal and approved procedure necessary for the recovery of outstanding amounts and debts owing to the Council.
- 214 To determine assistance to ratepayers experiencing genuine and substantial hardship.
- 215 To allow unpaid rates to accumulate and be paid from the estate of such aged pensioners, where such a request has been made, or from the sale of the house provided that in such cases no Council rate rebate shall be granted.
- 216 To certify that prices and computations on invoices/payments have been checked and are correct, and as far as able to be ascertained, are fair and reasonable and are in accordance with any quotation/contract under which the goods/services were supplied.
- 217 To determine the amount of bond required to be lodged by developers as surety for completion of works under Council's control.
- 218 To write-off rates or debts which are determined not financially viable to recover to a limit in any one case not exceeding \$5,000.
- 219 To authorise goodwill payments for Public Liability/Public Indemnity claims up to \$2,000.
- 220 To sign Section 603 Certificates on behalf of Council.
- 221 To authorise the release of any bond or bank guarantee where the required works or services have been completed in accordance with approvals granted by Council.
- 222 To authorise the disposal of surplus materials and goods.
- 223 To sign as the responsible accounting officer the statement of financial position with respect to Budget Review Statements in accordance with the Regulation.
- 224 To authorise Council participation in tenders called by CNSWJO on behalf of the participating councils.
- 225 To authorise the purchase of goods, works and services from Local Government Procurement in accordance with funds voted by Council and Council's Purchasing Manual.
- 226 To sign certificates under Section 54 of the Local Government Act 1993 in relation to the classification of public land.



### Engineering

- 301 To organise and allocate the priority of all construction and maintenance works, subject to any direction of the Council.
- 302 To determine applications for the use of (approve subject to conditions, or refuse) public roads for :
- (a) walk-a-thons, motor car trials, charitable collections or other like events;
  - (b) recruiting or similar purposes or for public health or other purposes on behalf of the Army, Navy or Air Force or other organisations to utilise part of a road or land owned by or under the control of the Council.
- 303 Be authorised to issue permits for holding of street stalls, processions on roads; holding of meetings in public places; and use of roads during building operations and standing of vehicles in restricted parking areas for any specific purposes and any other Act regulating functions under the control of the Council.
- 304 To provide temporary grandstands at Carrington Park for crowds anticipated to be in excess of 5,000 people, funded from Carrington Park Vote, subject to the provision of substantiated material by the promoters.
- 305 (i) To sign and issue approval of designs for subdivision plans and construction certificates.
- (ii) To sign survey requests/amendments to the Land Titles Office.
- (iii) To sign property identification reports.
- (iv) To sign survey plans.
- 306 To order the removal of obstructions placed illegally on road reserves, footpaths and public places.
- 307 To close the Ben Chifley Dam to specified users.
- 308 To close roads, or parts thereof, temporarily for repairs or construction.
- 309 To issue/refuse compliance and construction certificates in relation to subdivisions and engineering works.
- 310 Determine the extent and design of works associated with subdivisions and other development applications in accordance with Council Policies and Codes and to determine whether such works have been completed to a satisfactory standard.
- 311 To write to affected landowners seeking an indication on whether they wish the construction of concrete footpaving to be done, upon receipt of such requests for such work and then arrange a report to Council.
- 312 Grant approval for helicopter touchdowns on Public Reserves in a manner and at a time under such conditions as may be appropriate.

- 313 Authorise the private planting of trees and /or shrubs on footpaths.
- 314 To sign permits authorising maintenance or removal of trees under Council's Tree Preservation Policy and Council's Tree Preservation Order.
- 315 To remove dangerous trees on public works' construction sites under the control of the Council, where such removal is necessary, to allow work to proceed immediately.
- 316 To carry out private works and authorise the hire of Council plant subject to satisfactory arrangements being made for the payment of such works.
- 317 (i) To purchase new light vehicles and dispose of existing vehicles where the standard of the vehicle remains the same;
- (ii) To have the discretion to dispose of vehicles at other than 50,000km;
- (iii) Obtain trade prices when replacing vehicles; and
- (iv) To have the discretion to dispose of vehicle by either auction or trade-in.
- 318 To authorise the release of Council plant and other resources to assist fire fighting, emergency work, and assist the Local Emergency Management Committee in emergency work.
- 319 (i) To hire Council plant and equipment or to make it available to community groups in accordance with Council's Section 356 policy.
- (ii) To approve annual, standard parking and camping requests that occur each year from the Bathurst AH&P Association Inc.
- 320 Authorise the carrying out of water supply extensions up to 225m per tenement.
- 321 Authorise the carrying out of sewer extensions up to 75 m per tenement.
- 322 To determine the conditions of use of parks, gardens, reserves and other public places under Council's control.
- 323 To enter into Pipeline Agreements with the Rail Infrastructure Corporation.
- 324 To implement water restrictions in accordance with Council policy.

### Planning & Development

- 401 To determine Development Applications, Complying Development Certificates, and Construction Certificates.
- 402 To determine the fast tracking of Development Applications.
- 403 To issue or refuse to issue compliance, construction, subdivision and occupation certificates under Part 6.
- 404 To defend appeals against failure or refusal to issue Part 6 certificates.

- 405 To give notice of intention to serve orders and issue orders, and modify or revoke orders pursuant to the Local Government Act, Environmental Planning and Assessment Act, Food Act, Companion Animals Act.
- 406 To review determinations of development applications made by other staff under delegated authority.
- 407 To issue or refuse to issue a complying development certificate.
- 408 To modify or refuse to modify a complying development certificate.
- 409 To vary or extend the lapsing period of a consent in accordance with Sections 4.53 and 4.54.
- 410 To approve or refuse applications to modify development consents, being consents originally determined under delegated authority.
- 411 To defend appeals made pursuant to Part 8 of the Environmental, Planning & Assessment Act (EP&A).
- 412 To refer for comment Development Applications within the Conservation Areas to the National Trust, where deemed appropriate.
- 413 That Council delegate to the General Manager the powers, authorities, duties and functions delegated to Council by "Instrument of Delegation" dated 9 August 1995 by the Director General of the Department of Local Government, pursuant to Section 745 of the Local Government Act 1993, as amended in respect to Section 82(3) of that Act in relation to modification of the provisions of Clauses 51 or 52 of the Local Government (General) Regulation 2021.
- 414 To ensure that premises used for the preparation, storage and/or sale of food are maintained.
- 415 To commence legal proceedings pursuant to the Environmental Planning and Assessment Act 1979, the Local Government Act 1993 and the Protection of the Environment Operations Act 1997.
- 416 *This item is intentionally left blank.*
- 417 To approve of a flue terminating at a location not complying with the provisions of the policy if satisfied that compliance with the policy is not practicable, and that the proposed alternative is satisfactory.
- 418 Sign applications on behalf of Council as applicant and/or owner for works previously approved by Council to be undertaken by Council or on Council's behalf.
- 419 To sign Section 10.7 and Division 6.26 certificates.
- 420 To sign and issue certificates under clause 735A of the Local Government Act 1993, and Clause 41 of Schedule 5 of the Environmental Planning and Assessment Act 1979, as amended.
- 421 To exercise all of the powers of Council in respect of:

- (a) Applications for all those matters listed in Part A of the Table contained in Section 68 of the Local Government Act 1993.
  - (b) The variation of building lines made under Council's Approvals Policy.
  - (c) The variation of Restrictive Covenants created pursuant to Section 88B of the Conveyancing Act 1919, as amended, provided that the subject of the variation complies with the relevant planning instrument.
  - (d) Applications for those matters contained in Items 5 and 6 of Part B of the table contained in Section 68 of the Local Government Act 1993.
  - (e) Applications for all those matters listed in Part C of the table contained in Section 68 of the Local Government Act 1993.
  - (f) Applications for those matters contained in Items 3, 4, 5 and 6 of Part D of the table contained in Section 68 of the Local Government Act 1993.
  - (g) Applications for all those matters listed in Part E of the table contained in Section 68 of the Local Government Act 1993.
  - (h) Applications for all those matters listed in Part F of the table contained in Section 68 of the Local Government Act 1993.
- 422 Determine applications for the creation of temporary construction zones on public roads restricting public parking in such zones.
- 423 To take any action considered necessary under the Mount Panorama Operations Policy.
- 424 To administer the policy in relation to advertising on light standards.
- 425 To exercise the local plan-making authority and planning proposal authority of the Council under Part 3 of the EPA Act 1979, to:
- (a) Prepare and exhibit a planning proposal
  - (b) Exercise any delegation conferred upon him/her from time to time by the Director-General of the Department of Planning Industry and Environment under the Act.
- 426 To prepare a draft Development Control Plan in accordance with Section 72 of the Environmental Planning & Assessment Act 1979 and in accordance with the appropriate Regulations, but not including Clause 24(1) of the Regulations, and exhibit, but not to adopt or amend, Town Planning Codes, Guidelines and Policies.
- 427 Development Applications
- (a) To make any decision or to take any actions required of or open to Council to take in accordance with Part IV "Environmental Planning Control" of the Environmental Planning and Assessment Act 1979 as amended, but not including the power:
    - (1) To determine any Development Application in respect of a designated development as defined in Section 4;

- (2) To determine any Development Application in relation to which a negative submission has been received and where the matters raised in that submission have not been resolved; or,
  - (3) To revoke or modify a Development Consent (not being at the applicant's request) in accordance with Section 103;
  - (b) To call meetings of the Departmental Discussion Forum in relation to any Development Application or Compliance Certificate.
  - (c) To call meetings of the Council Discussion Forum in relation to any Development Application or Compliance Certificate.
- 428 To assume the concurrence of the Director General of the Department of Planning for variations of development standards in accordance with State Environmental Planning Policy 1 and Department of Environment and Planning Circular 117.
- 429 To authorise the release of subdivision certificates by signing the required documents, where the Council Seal or Power of Attorney is not required.
- 430 To refund unexpended Development Application fees on actual costs basis.
- 431 To commission an independent structural assessment of a building for which a Development Application has been made for demolition where, in assessing the development, the building is found to be of heritage significance.
- 432 To authorise the refund of fees in total or in part in respect of applications either refused by Council or withdrawn by the applicant under the provisions of Section 88 of the Local Government Act 1993.
- 433 To carry out rabbit eradication on roadsides in conjunction with the Local Land Services.
- 434 To impound stock pursuant to Section 2 of the Act.
- 435 To implement the delegations from the NSW Heritage Office in respect of issuing approvals under Section 60 of the Heritage Act 1977 and the making of orders.
- 436 Pursuant to Section 381(3) of the Local Government Act 1993 approve the NSW Food Authority's delegation to the General Manager to provide written approval for dispensations and alternative methods of compliance in regard to the Food Standards Code's Standard 3.2.2 (clauses 15 and 17) and Standard 3.2.3 (clauses 10 and 14).
- 437 Pursuant to Section 109E(3) of the Food Act 2003, and conditional upon approval from the NSW Food Authority approve the General Manager to sub-delegate the power to provide written approvals for dispensations and alternative methods of compliance in regard to the Food Standards Code's Standard 3.2.2 (clause 15 and 17) and standard 3.2.3 (clauses 10 and 14) to the Director Environmental, Planning and Building Services.
- 438 Authority to make recommendations in relation to applications for accreditation of Council building surveyors under the Building Professionals Act 2005.

- 439 To undertake the powers, authorities, duties and functions delegated to Council by "Instrument of Delegation" dated 8 November 2012 by the Acting Commissioner for Fair Trading pursuant to Section 21 of the Plumbing and Drainage Act 2011.
- (a) to monitor compliance with the Plumbing and Drainage Act (s19(a))
  - (b) to ensure that any plumbing and drainage work carried out does not threaten public health or safety (s19(b))
  - (c) to undertake any other functions conferred or imposed on the plumbing regulator by the Plumbing and Drainage Act (s19(c)) other than:
    - receiving notices of work and other documentation required to be submitted to the plumbing regulator concerning proposed alternative solutions (s9(3) of the Plumbing and Drainage Act and Clause 10 of the Plumbing and Drainage Regulation)
    - authorising fittings for use in plumbing and drainage work (s20)
    - initiating criminal proceedings as provided for in Part 5 of the Plumbing and Drainage Act.
- 440 To undertake the following plan-making functions delegated by the Minister
- (a) to make – and determine not to make – an LEP under section 59(2), and (3) of the EP&A Act
  - (b) to defer inclusion of certain matters in an LEP under section 59(3) and
  - (c) to identify which matters must be considered and which stages of the plan-making process must be carried out again prior to resubmission (section 59(4)) if the council defers the proposal or if a matter is deferred from the LEP
- 441 to enter into agreements with members of the public for certification works as defined under the Building Professionals Act 2005.
- 442 to transfer properties between categories of notification of land on a Section 10.7 Certificate as outlined in the Bathurst Regional Council Contaminated Land Policy in accordance with the outcomes of appropriate geotechnical investigations.
- 443 That Council delegate to the General Manager the powers, authorities, duties and functions delegated to Council by "Instrument of Delegation" dated 14 February 2019 by the Chief Executive of Roads and Maritime Services pursuant to Section 125 (3) of the Roads Act 1993 in relation to the approval of Footway Restaurants.

## **Introduction and Protocols – Delegations Instrument**

### **Introduction**

Pursuant to Section 377 of the Local Government Act Council, in performing its functions can either exercise these directly or by delegation to other groups. As part of the overall running of the Council, Council delegates a number of tasks to the General Manager to ensure the efficient day to day management of Council.

Additionally, in accordance with Section 378 of the Act the General Manager may delegate any of the functions of the General Manager, other than this power of delegation.

### **When are revisions required?**

Section 380 of the Local Government Act states that the Register of Delegations is required to be reviewed during the first 12 months of each term of office. Additionally, it is Council policy that a review of delegations occurs every 12 months. However, there will be times when the delegations register will require revision. These are listed as follows:

- When the powers granted to the General Manager are changed for any reason; such as
  - By resolution of Council, or
  - Amendment to an Act of Parliament;
- When the General Manager determines that a new delegation needs to be made or an existing delegation amended;
- When a staff member with delegations resigns and someone new is appointed to the position. Note name change only;
- When a position or (department) undergoes a name change, or has its responsibilities revised.

### **Responsibility for making revisions**

- The General Manager is the only person who can authorise a revision of a delegation;
- Any changed delegation must be in writing and under the General Manager's signature;
- The responsibility for amending delegations in the circumstances indicated are as follows:

**Circumstance**

**Responsible person**

When the powers granted to the General Manager is changed for any reason.

Director Corporate Services & Finance

When the General Manager determines that a new delegation needs to be made or an existing delegation amended.

Director Corporate Services & Finance

When a staff member with delegations resigns and someone new is recruited. Note name only.

Director Corporate Services & Finance

When a position or department undergoes a name change or has its responsibilities revised.

Director (relevant department)

**Process for Revising a Delegation**

- A delegation can only be changed when the General Manager signs the Instrument of Delegation.

The Schedule of Delegation should be prepared in the following format:

Act/Reference	Function	Authority/Limitation
The Act which empowers the General Manager	Brief description of the power, duty or authority being delegated	Details of the authority and any limitations on this authority that need to be spelt out.

Once authorised by the General Manager, the Manager Corporate Governance will then:

1. Log the instrument and the delegation into the physical Register of Delegations.
2. Issue the revised approved delegation in accordance with the distribution list.

**Changing People or Positions**

When a person or position name changes, but there are no changes in the delegated responsibilities, the General Manager or Director’s signature on the letter of appointment is sufficient to trigger the change.

When the delegated responsibilities change with the person or position, it is the responsibility of the Director to ensure that the process of revising a delegation is adhered to and that the Manager Corporate Governance is advised to amend the control delegation register and issue an update.

**Correspondence**

- Any officer given authorised delegation to sign correspondence must forward a copy to the file.
- Standard letters must be in the manual of standard procedures.



<b>POLICY:</b>	PURCHASING - ACQUISITION OF GOODS AND SERVICES
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No. 11477  Director Corporate Services & Finance's Report #2 Policy 1 March 2006, Council 15 March 2006 Minute Book No. 9799
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services Report #1 Policy 1 December 2004, Council 8 December 2004 Minute Book No. 9416 (former BCC Policy)
<b>FILE REFERENCE:</b>	15.00008
<b>OBJECTIVE:</b>	To define a policy for inviting Tenders and Contracts for Council works, services and or goods which complies with the Local Government Act 1993, and establish procedures for tenders above and below \$250,000.

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That Council when inviting tenders for the carrying out of work, or the supply of goods and services on behalf of Bathurst Regional Council will have regard to the following principles:

1. Open and effective competition
2. Value for money
3. Environmental Impacts
4. Ethical behaviour and fair dealing
5. Accountability and observance of the Local Government Act and regulations, together with other related statutory requirements and standards.

For Tenders and Contracts for amounts above \$250,000 procedures in accordance with the Local Government Act and Regulation will be followed.

For tenders and contracts below \$250,000 procedures in accordance with Council's delegation of authority to the General Manager and the Council Purchasing Manual.

That where appropriate, and in consideration of the Trade Practices Act and National Competition requirements, a preference of 5% on product cost will be given to suppliers based in the Bathurst Local Government Area as criteria assessment on submission of a tender.

Council will process the calling of tenders, opening of tenders, assessment of tenders and reporting to Council in line with the Purchasing Manual.

## **Attachment 6.1.8.1**

Council will include in its annual Conditions of Tendering that the lobbying or liaison with Councillors prior to the consideration of a tender by Council will lead to the rejection of the tender.



# PURCHASING MANUAL

Originally adopted: 7 September 2005  
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## **1. OBJECTIVES**

- 1.1. To provide Council with a comprehensive purchasing service for the planned and expedient acquisition of the best possible goods, works and services at the best possible value for money.
- 1.2. To ensure observance of the provisions of the Local Government Act (1993) and Regulations and any other relevant State and Federal laws in the process (particularly in relation to Work Health & Safety).
- 1.3. To maximise the prospect of obtaining the most cost-effective outcome from invitations to suppliers and to instil confidence in the public about the cost-effectiveness of Council procurements, with consideration being given to purchase cost, environmental sustainability and impact on the community.
- 1.4. To clearly define roles and responsibilities of officers.
- 1.5. To facilitate improved financial management of Council's budget.
- 1.6. To facilitate the process of transparency and accountability for all actions required to procure goods for Council.
- 1.7. To implement a purchasing system that minimises disruption to Council's works program for all responsible officers exercising a degree of common sense and responsibility.

## **2. INTRODUCTION**

Bathurst Regional Council has a multi-million dollar budget. Much of this budget relates to the purchase of goods or services and the aim of this manual is to provide systems and procedures that ensure that Council purchasing is conducted in an ethical, efficient, transparent, environmentally sustainable and cost effective manner.

Council undertakes purchasing activities for many reasons including, but not limited to:

- 2.1. Goods held in stock (to allow works teams to undertake daily activities with a minimum of delay).
- 2.2. Goods not held in stock (items used infrequently that are not held in stock by Council).
- 2.3. Works and services.  
The quantities and cost of the items purchased by Council varies significantly and require different methods of procurement.

Procedures within this manual are based on the value of goods to be purchased:

- a) Between \$0 and \$50,000
- b) Between \$50,001 and \$250,000
- c) Over \$250,000

### 3. ROLES AND RESPONSIBILITIES

#### 3.1. General Purchasing

The Purchasing Compliance Officer is responsible for the oversight of the general purchasing function of Bathurst Regional Council and ensuring compliance with the Purchasing Policy and the procedures contained in this manual.

The Workshop Coordinator, Workshop Foreman and any other officer authorised by the General Manager are responsible for the raising of purchase orders in their areas of responsibility and within the limits of their delegations.

In the case of contracts for specific works or services a person may be nominated under the Terms of Engagement of that contract and is authorised, within the limits of their delegations, to carry out the requirements of that contract.

The goals of this manual are:

- a) Efficient use of resources.
- b) Coordination in exercising Council's purchasing power.
- c) Ensure dealings with suppliers are conducted in a transparent and professional manner.
- d) Ensure the application of consistent and standard policies and practices in dealing with suppliers.
- e) Reduced opportunity for conflicts of interest and corrupt behaviour.

#### 3.2. Users

Users of the Purchasing System shall ensure that:

- a) They comply with all established purchasing and supply policies and procedures.
- b) All requests for a purchase must be completed via an authorised requisition. All requisitions must be authorised by an officer who has the appropriate delegations.
- c) There are funds available prior to obtaining quotations/tenders or submitting a request for purchase.
- d) They work closely with Stores to establish realistic yet cost-efficient stock levels.
- e) They adhere to the Council's Code of Conduct, comply with the Council's Statement of Business Ethics and work within their delegation limits at all times.
- f) They **do not accept any gifts of any nature** from a supplier/service provider with whom they are dealing.



## 4. AUTHORISATION TO PURCHASE

### 4.1. Delegated Authority

In order for staff to carry out their responsibilities effectively, they must exercise appropriate authority to purchase goods and services for their area of responsibility. It is each individual Director's responsibility to ensure their staff are delegated appropriate authority in line with their level of responsibility and accountability. **It is the responsibility of each individual staff member to ensure that they operate within the limits of their delegations.**

Such authority should be limited according to the following criteria:

- (a) Area of responsibility.
- (b) Recurrent operational expenditure as approved by Council in the budget.

The Purchasing Compliance Officer (or their alternate) shall have delegated authority to sign orders for goods and services.

**Any Information Technology purchases (including hardware and software) must be approved by the Manager Information Services (MIS) prior to their purchase.** Access to Council's computer or mobile phone network and ongoing support cannot be guaranteed if approval from MIS for these purchases has not been received prior to placement of the order.

Any delegated authorities to purchase are assigned to the **particular position** named, are delegated by the General Manager and **are not transferable**. If a staff member is relieving in a position and this is **authorised in writing**, then delegated authorities to purchase are assigned automatically to the person relieving in the position. Refer to Appendix 1 for copy of higher duties form. For delegations to be assigned to a relieving position the bottom section of the form must be authorised by the Director Corporate Services and Finance or the General Manager and a copy forwarded to the pay section prior to the commencement of the relief period. **Delegations cannot be backdated.**

The Local Government Act, 1993 (LGA) and the Local Government (General) Regulation 2005 provide that, any contract for works or services over \$250,000 must be subjected to a tendering process. Section 55 of the LGA provides exemptions from the requirements for the need to call tenders. Please refer to Section 55 before commencing a tender process.

### Government Contract

As per Section 55 of the Local Government Act, 1993, if a NSW State Government contract or a Local Government Procurement contract is already in place for the goods or services in question, regardless of their value, then Council has the right to purchase the goods or services off those existing contracts, without the need to conduct its own formal process.

### 4.2. For Services not Related to Purchasing

Some service functions may be of a type such that it is not practical to raise an

order. In such circumstances the authority to purchase may be in the form of a Council Minute or an instruction from a delegated officer. Payment for satisfactory completion of the service is initiated by a cheque requisition, duly authorised by the relevant Department, and accompanied by appropriate documentation, being forwarded to Accounts Payable. These types of payment will be limited in number.

#### **4.3. Allocation of Funds**

Apart from delegated authority to purchase, it is essential that funds are available for purchase prior to any commitment being made. This means that a financial allocation must have been made by Council in the Annual Operational Plan or subsequent reviews for the purpose to which the proposed purchase applies.

For special projects, contribution works and grant works not specifically detailed in the Annual Operational Plan, approval to purchase is dependent on the funds being available. These funds must either be received or committed in writing by the funding body, and accepted by Council. Detailed works estimates shall be provided to the Director of Corporate Services and Finance. The level of expenditure on goods, works and services is then authorised as per the works estimate. Purchasing is then subject to standard procedure.

#### **4.4. Preference to Local Suppliers**

Subject to Trade Practices and National Competition Policy requirements, where appropriate, a preference of 5% on product cost may be given to Bathurst Region based suppliers for satisfactory goods of identical properties to those offered by suppliers based outside the Bathurst Region.

Where it is intended to use this clause it must be clearly notified to all prospective suppliers prior to the closing date for receiving quotations or tenders.

### **5. ENVIRONMENTAL SUSTAINABILITY**

A key theme of Council's Community Strategic Plan is environmental sustainability. Council has statutory obligations under the Local Government Act 1993 to "Properly manage, develop, protect, enhance, and conserve the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development (ESD)".

Council acknowledges that the purchase and use of products and services can have a profound impact on the economy, environment and society. Council and its employees will therefore make sustainable purchasing part of their daily decision making, integrating sustainability considerations into all aspects of the procurement process.

The benefits of sustainable procurement include, but are not limited to:

- Reductions in the use of energy, water and other natural resources
- Reductions in production of waste and pollution
- Reductions in environmental and human impacts of products and services
- Supporting the development of environmentally friendly products
- Improving the viability of recycling
- Protecting and conserving the environment, and

- Providing leadership to the community and local businesses

Council and its employees will procure environmentally preferred products and services whenever they perform satisfactorily, are of a similar quality and are available at a reasonable price.

In making purchasing decisions Council and its staff will:

- Give preference to products produced using sustainable methods / resources
- Encourage sustainable use of resources, eg initiatives to better manage energy and water
- Reduce environmental impacts eg greenhouse gas emissions (note that impacts should be considered over the entire lifecycle of the product)
- Reduce waste to better manage environmental risks eg minimise packaging
- Improve the health and safety of Council employees and the community
- Avoid, where possible, the purchase of products that pollute soils, air and waterways during production and use
- Avoid, where possible, the purchase of hazardous chemicals that may be harmful to human health or ecosystems
- Avoid, where possible, the purchase of products that involve inhumane or unethical treatment of animals
- Purchase products that promote social equity

## 6. PURCHASING PROCEDURE

### 6.1 Creation of Orders

**PRIOR to the purchase of goods and/or services a staff member must raise a requisition for the relevant supplier.** The requisition must nominate the supplier/service provider, goods/services requested and the amount of the order. If the exact amount is not known please estimate this figure. If the final invoice varies by more than 20% from the price of the order, a price variance task will need to be completed. Also, if the quantity varies at all from the order quantity a quantity variance task will need to be completed and authorised according to the delegation register.

Once the requisition satisfies the requirements of this purchasing policy (eg number of required quotes etc.) the Purchasing Compliance Officer will create a purchase order (PO). The PO will be generated and emailed or printed and then forwarded to the supplier/service provider so that they can record the PO number on any invoice raised in connection with the supply of the goods or services.

**Invoices without a valid Council PO number on them will be returned to the supplier unpaid.**

In some cases it is not possible to obtain multiple quotations due to the type of good or service that is being provided. Examples of this are contributions to emergency services and Upper Macquarie County Council, electricity, insurance, Australia Post, most State and Federal Agencies and legal fees (specialist). At Appendix 2 is a list of suppliers/service providers that are exempt from the requirement obtain multiple quotations. This list may be updated from time to time and the most current version will be available on the Intranet.

### 6.2 Receiving Goods

When the goods are received or the works and services carried out, the goods

received process must be completed, by the staff member receiving the goods. Where the goods are not delivered to the Peel Street Store, it is essential that the Requisitioning Officer be notified. This also applies to the performance of works or services. The appropriate order number must be quoted on this documentation.

**In cases where the person receiving the goods is the same person who raised the order, the goods received docket must be completed by another staff member. i.e. one person cannot sign an order and authorise receipt of the goods. It is the responsibility of the staff member receiving the goods to verify that the goods have actually been received or the service supplied.**

### 6.3 Authorisation of Payment

Once the purchase and goods receipt have been completed, further control on an organisational basis comes from the authorised signatories checking the payment prior to signing the EFT/cheque. The Council delegations register (as amended from time to time) lists those officers that are duly authorised to sign payments.

## 7. TYPES OF CONTRACTS

The level of expenditure will determine the method used to procure goods or services for Council. The levels currently set by Council are:-

### 7.1. Between \$0 and \$50,000

Procedures set out in Section 8 of this manual must be followed. All thresholds are GST inclusive.

### 7.2. Between \$50,001 and \$250,000

Procedures set out in Section 9 of this manual must be followed.

### 7.3. In excess of \$250,000

Tenders must be called and procedures set out in Section 10 of this manual must be followed.

## 8. PROCEDURES FOR PURCHASES WITH A VALUE BELOW \$50,000

**NOTE:** Purchases under this section **must not** be split to reduce the requirements for quotations etc.

Any purchase less than \$50,000 shall be undertaken in accordance with:

- the delegations of the relevant staff member that have been approved by the General Manager
- Council's adopted Code of Conduct
- Council's Adopted Annual Operational Plan, and
- the following procedures:

### 8.1 Purchases Less Than \$5,000:

For purchases less than \$5,000 it will not be necessary to obtain multiple quotations. However, it is still necessary for the purchaser to act within their delegated responsibilities.

**8.2 Purchases between \$5,000 and \$50,000:**

- a) At least two written quotes must be obtained and attached to the requisition
- b) The quotation must be accepted by a Council officer with the appropriate delegations of authority.
- c) The quotation accepted should reflect the best purchasing option available for Council
- d) In some instances, due to the specific nature of the service or goods it may not be possible to obtain multiple quotes. In those circumstances the approval of the Manager or Director (depending upon individual delegations) to undertake the works (with less than two quotes being received) must be obtained. It will be necessary to document the procedures undertaken and reasons why two quotes could not be obtained.
- e) Depending upon the value or complexity of the contract/purchase it may be necessary to create a specification for the project which can be provided to suppliers prior to obtaining of quotations.

**8.3 Additional Procedures;**

- (a) When obtaining quotations (either oral or written), those invited to quote should
  - All receive the request at or about the same time
  - All receive the same information
  - Represent a fair selection of available service providers
- (b) All information obtained should be recorded appropriately on Council's records management system

**9. PROCEDURES FOR CONTRACTS VALUED BETWEEN \$50,000 AND \$250,000****9.1. Expenditure Levels**

For contracts/purchases in this range there are two expenditure levels which will require different procedures to be followed:

- \$50,000 - \$150,000 and
- \$150,001 - \$250,000.

A list of suppliers who are exempt from the requirement to obtain quotations has been developed and is provided at **Appendix 2**. If a supplier is not on this list then the requirements for quotations in the following sections **must** be followed.

**9.2. Procedures for Contracts/Purchases between \$50,000 and \$150,000**

- a) The invitation to supply goods/services to council should be for 'quotations' not tenders.
- b) The recommendation for acceptance of a quotation does not have to be referred to Council but can be accepted by the General Manager or his delegated officer having authority under Council's delegations of authority.

- c) A record should be created and/or a quotation number obtained from the records section of council. All steps should then be incorporated into the file from advertising to acceptance of quotations and implementation of the contract if it involves ongoing services.
- d) At least three written quotations must be obtained and attached to the requisition, unless approved otherwise by the General Manager.
- e) The quotations should be assessed based on the pre-set criteria and the assessment should be properly documented.
- f) The reasoning and result of selection should be properly documented.
- g) All persons submitting quotations should be notified in writing by post/email about the result of the quotation process.
- h) In some instances, due to the specific nature of the service or goods it may not be possible to obtain multiple quotes. In those circumstances the approval of the General Manager to undertake the works (with less than three quotes being received) must be obtained. It will be necessary to document the procedures undertaken and reasons why three quotes could not be obtained.
- i) The minimum time set for the submission of quotations shall be not less than ten (10) business days.
- j) Depending upon the value of the contract/purchase it may be necessary to create a specification for the project which can be provided to suppliers prior to obtaining of quotations.

**9.3. Procedures for Contracts/Purchases between \$150,001 and \$250,000**

- a) Procedures outlined in 9.1 and 9.2 above must be followed
- b) Guidelines set out in Section 10 Tendering Procedures (below) will generally be followed except where they conflict with section 9.1 and 9.2 above.
- c) The following Clauses in Section 10 do not apply to purchases between \$150,001 and \$250,000:
  - a. 10.1 Procedures and Statutory Requirements
  - b. 10.2 Tendering Procedures
  - c. 10.9 Advertisement
  - d. 10.13 Recommendation and Approval**N.B.** Advertising may still be required but it may not be necessary to advertise in the Sydney metropolitan area.
- d) A file should be created and a quotation number obtained from the records section of council. All steps should then be incorporated into the file from advertising to acceptance of quotations and implementation of the contract if it involves ongoing services.
- e) A specification for the project and the selection criteria should be pre-set, properly documented and provided as part of the quotation process.

- f) Quotes must be submitted in writing, enclosed in a plain sealed envelope marked "Confidential – Quotation No 37.xxxxx and quotation description" and addressed to the General Manager. If the quotations are delivered by hand, they should be deposited in the quotations box located in the foyer of the Civic Centre 158 Russell Street Bathurst. Quotations delivered by courier should be removed from the delivery bag prior to being placed in the quotations box.
- g) Consideration should be given to using the electronic Tenderlink process for all quotations in excess of \$150,000 to ensure that proper processes are followed and records kept.
- h) Written quotations for amounts in excess of \$150,000 should normally be deposited in the quotations box in Council's foyer prior to the advertised closing time. Opening of quotations will take place as soon as practicable after the closing time. Due to the necessity to check both the Quotation Box and the Tender Box it will be necessary for at least two people to attend for the removal of the quotations. Once removed quotations should be opened by the responsible officer in the company of at least one other council employee and should be initialled and dated.
- i) Quotations do not need formal Council approval, however, must be accepted in accordance with the procedures set out in this manual and the delegations instrument.

## **10.TENDERS (CONTRACTS IN EXCESS OF \$250,000)**

### **10.1. Procedures and Statutory Requirements**

The procedures set out in this section cover all tenders except for the exclusions mentioned in the Local Government Act section 55(3). Section 55 of the Local Government Act, 1993 states

#### **55 Requirements for tendering**

- (1) A council must invite tenders before entering into any of the following contracts—
  - (a) a contract to carry out work that, by or under any Act, is directed or authorised to be carried out by the council,
  - (b) a contract to carry out work that, under some other contract, the council has undertaken to carry out for some other person or body,
  - (c) a contract to perform a service or to provide facilities that, by or under any Act, is directed or authorised to be performed or provided by the council,
  - (d) a contract to perform a service or to provide facilities that, under some other contract, the council has undertaken to perform or provide for some other body,
  - (e) a contract for the provision of goods or materials to the council (whether by sale, lease or otherwise),
  - (f) a contract for the provision of services to the council (other than a contract for the provision of banking, borrowing or investment services),
  - (g) a contract for the disposal of property of the council,
  - (h) a contract requiring the payment of instalments by or to the council over a period of 2 or more years,
  - (i) any other contract, or any contract of a class, prescribed by the regulations.

- (2) Tenders are to be invited, and invitations to tender are to be made, by public notice and in accordance with any provisions prescribed by the regulations.
- (2A) Nothing in this section prevents a council from tendering for any work, service or facility for which it has invited tenders.
- (3) This section does not apply to the following contracts—
  - (a) subject to the regulations, a contract for the purchase of goods, materials or services specified by a person prescribed by the regulations made with another person so specified, during a period so specified and, if a rate is so specified, at a rate not exceeding the rate so specified,
  - (b) a contract entered into by a council with the Crown (whether in right of the Commonwealth, New South Wales or any other State or a Territory), a Minister of the Crown or a statutory body representing the Crown,
  - (c) a contract entered into by a council with another council,
  - (d) a contract for the purchase or sale by a council of land,
  - (e) a contract for the leasing or licensing of land by the council, other than the leasing or licensing of community land for a term exceeding 5 years to a body that is not a non-profit organisation (see section 46A),
  - (f) a contract for purchase or sale by a council at public auction,
  - (g) a contract for the purchase of goods, materials or services specified by the NSW Procurement Board or the Department of Administrative Services of the Commonwealth, made with a person so specified, during a period so specified and, if a rate is so specified, at a rate not exceeding the rate so specified,
  - (h) a contract for the employment of a person as an employee of the council,
  - (i) a contract where, because of extenuating circumstances, remoteness of locality or the unavailability of competitive or reliable tenderers, a council decides by resolution (which states the reasons for the decision) that a satisfactory result would not be achieved by inviting tenders,
  - (j) contract for which, because of provisions made by or under another Act, a council is exempt from the requirement to invite a tender,
  - (k) a contract made in a case of emergency,
  - (l) a contract to enter into a public-private partnership,
  - (m) if a council has entered into a public-private partnership—a contract entered into by the council for the purposes of carrying out a project under the public-private partnership (but only to the extent that the contract is part of the project that has been assessed or reviewed under Part 6 of Chapter 12),
  - (n) a contract involving an estimated expenditure or receipt of an amount of—
    - (i) less than \$250,000 or another amount as may be prescribed by the regulations, or
    - (ii) less than \$250,000 or another amount as may be prescribed by the regulations for a contract involving the provision of services where those services are, at the time of entering the contract, being provided by employees of the council,
  - (o) a contract that is an environmental upgrade agreement (within the meaning of Part 2A),
  - (p) a contract or arrangement between a council and the Electoral Commissioner for the Electoral Commissioner to administer the council's elections, council polls and constitutional referendums,
  - (q) a contract made with a person or body approved as a disability employment organisation under the Public Works and Procurement Act



1912 for the purchase of goods or services in relation to which the person or body is so approved.

*Note— Despite the person or body being approved under the [Public Works and Procurement Act 1912](#), that Act does not otherwise apply to the procurement of goods and services by or for a council.*

- (4) A council that invites tenders from selected persons only is taken to comply with the requirements of this section if those persons are selected—
- (a) from persons who have responded to a public advertisement for expressions of interest in the particular contract for which tenders are being invited, or
  - (b) from persons who have responded to a public advertisement for recognition as recognised contractors with respect to contracts of the same kind as that for which tenders are being invited.

## 10.2. Tendering Procedures

Tendering procedures related to the above contracts are further categorised within this manual based on their contract value:

In determining whether to call for tenders it is necessary to estimate the probable value of the contract. If there is any possibility that a contract will be of a value exceeding \$250,000 then tenders must be called. **For the purpose of estimating the contract value the estimate used must include GST.**

It should be noted that Council is not precluded from calling tenders for contracts below the value of \$250,000.

**Under no circumstances should works, services or projects be broken up into smaller parts solely for the specific purpose of circumventing the tender requirements stated in these guidelines and in the Act.**

Contracts should be sized and packaged with a view to maximising the economies available through the tender process and ensuring that the process provides real competition.

## 10.3. Tendering Methods

Council can select any one of the following tendering methods, depending on the project type and situation

- (a) Open tendering method – by which tenders for the proposed contract are invited by public advertisement;
- (b) Selective tendering method (advertising) – by which invitations to tender for a proposed contract are made following a public advertisement asking for expressions of interest; and
- (c) Selective tendering method (pre-qualification) – by which recognised contractors selected from a list prepared or adopted by the Council are invited to tender for contracts of a particular kind.

The method to be adopted for each tender is the Open Tendering Method unless otherwise approved by the General Manager.

If consultants have been engaged to assist in the tendering process or in management of the contract, this role can be identified in the tender documents.

Notwithstanding the above, such tenders are to be called in the name of Council and advertised under the signature of the General Manager.

Unless authorised otherwise by the General Manager, tenders for which Council is to be the Principal are not to be called by another party on behalf of Council.

#### 10.3.1. Selective tendering - Expression of Interest

Expressions of interest add a step into the tendering process. They have the effect of limiting the number of tenders ultimately received.

This process should generally only be adopted for special or unusual contracts where:

- (a) the quality offered by tenderers may vary significantly
- (b) the level of service or expertise offered may be more important than price
- (c) the project is large enough to make the cost of preparing a tender a significant cost
- (d) specialised works or services are called for.

Before inviting selected tenderers to submit tenders, Council must advertise, inviting applications from persons interested in tendering. (Local Government (General) Regulation Clause 168)

#### 10.3.2. Electronic tendering

All tenders should where practical be called by the use of an Electronic tendering method. Council has subscribed to Tenderlink ([www.tenderlink.com](http://www.tenderlink.com)) as its service provider for electronic tendering. Local Government Procurement is another alternative source of some materials and services.

The Local Government Act requires that Council must accept tenders by two methods, so purchase of hard copy documents and submission of tenders as per section 10.4 below is still acceptable.

### **10.4. Tendering Documents**

When calling tenders, the following documents may be required to complete the tender package. Consideration should be given to the need for each document depending on the nature of the proposed contract:

#### 10.4.1. Tender Submission Form

This is the form on which the Tenderer states their price, name and contact details and signs the tender.

#### 10.4.2. Conditions of Tendering

This document states Council's standard conditions pertaining to tenders, plus any particular tendering conditions specific to this tender.

The Conditions of Tendering must cover:

- whether a tender document deposit is required; if so, how much, in what form, and what are the conditions for its refund. Tender document deposits should only be required where the cost of printing tender documents is significant. The deposit should be set having regard to the cost of printing the documents, not the cost of preparation. Tender document deposits should generally be refunded unless otherwise specified upon return of complete documents in good condition. Where electronic tendering is used, there will be no charge for provision of documents
- how late tenders will be treated
- how non-conforming tenders will be treated
- criteria to be used in evaluating tenders
- the contact person for enquiries
- the closing date and time for tenders
- how tenders are to be lodged
- the lowest or any tender may not necessarily be accepted by Council
- whether there will be a compulsory site inspection or pre-tender meeting
- the procedure for opening tenders
- a copy of the advertisement must be attached to all specification documents, so that all people applying for a copy of the specification are aware of the tender requirements, especially that tender envelopes not have the name of the tenderer on them.
- that the lobbying or liaison with Councillors prior to the consideration of tenders by Council will lead to the rejection of the offending tender. (N.B. This statement should also be included in the tender advertisement.)

#### 10.4.3. Bill of Quantities

This may or may not be required, depending on the type of contract, this will be identified in the General Conditions of Contract.

#### 10.4.4. General Conditions of Contract

These are general conditions governing the management of the contract and are generally standard, except for particular annexures which may need to be completed with specific details for the particular contract.

For construction or similar works or services a contract specified in the Australian Standards or an alternative contract approved by the General Manager shall be used.

In compiling the tender documents, the Conditions of Tendering must clearly indicate the document to be used.

In completing the annexures to any contract, the following guidelines should be followed:

- (i) **Public Liability Insurance:** The contractor will be required to obtain a minimum \$20 million public liability insurance policy extended to cover Council as co-insured.

- (ii) **Contract Duration:** The time for completion of the works should be explicitly stated. The time stipulated should be consistent with Council's targets but must be achievable. If no time is to be specified, but the tenderer is to nominate his completion time, this should be stated in the Conditions of Tendering. If the stated time is to be a factor in assessment of tenders this must be stated.
- (iii) **Liquidated Damages:** These can be applied where completion of the contract occurs after the date of practical completion but must be determined with due consideration of the actual losses likely to be incurred by Council in the event of late completion.
- (iv) **Defects Liability Period:** This would normally only apply to projects or supply contracts, where there is a need to ensure the contractor remains obliged to rectify defects in the completed works for the defined period. The defects liability period should be set with due regard for the type of work involved in the contract, industry standards and the likelihood of significant defects arising after completion of the works.
- (v) **Retention:** This is the amount withheld from progress payments to ensure completion of works. It should only be required where there is demonstrable cost to Council in the event of default by the contractor, and should be set at 5% of the contract value (unless stated otherwise in the contract), and is additional to the security deposit. Retention sums are to be released upon completion of the contract work.

#### 10.4.5. Specifications

- (i) The specification must be clear and concise listing the user requirements, critical time schedules and the necessary technical details.
- (ii) The tender specification should define as closely as possible, the obligations of the contractor under the contract. The specification should remove as far as possible, the existence of ambiguity and the need for interpretation.
- (iii) Specifications should preferably be based on the results, performance, and standards to be achieved under the contract. Consideration should be given to inclusion of the following factors:- purchase cost, environmental sustainability and impact on the community. The use of 'method' specifications (which prescribe how the work shall be undertaken), should be avoided where possible.
- (iv) Specifications should where necessary refer to relevant Australian Standards, Codes, RMS standards etc, ensuring that the year of publication of any reference is stated.
- (v) Consideration needs to be given to the need or otherwise to undertake the work on a Quality Assurance basis, and the additional cost this may entail.

### 10.5. Pre-Tender Meetings

Pre-tender meetings should be considered where the scope of work is unusual or potentially confusing to tenderers. If the contract is for any form of on site works, the pre-tender meeting should be combined with a site inspection.

Details of the pre-tender meeting/site inspection should be clearly stated in the Conditions of Tendering and the tender advertising. The fact that such meeting/site inspection is compulsory for conforming tenders should be clearly stated.

Minutes of pre-tender meetings should be taken and distributed to all

tenderers in attendance. Such minutes will become part of any subsequent contract.

**10.6. Closing Time for Tenders**

The closing time for tenders must be clearly stated in the Conditions of Tendering and in tender advertising.

Tenders are to close at 10.00 am on the nominated date. Tenders should close on a Tuesday (except in extenuating circumstances).

The period allowed for tenders should be reasonable considering the size of the contract and the amount of work involved in the preparation of a tender. In any event the time allowed for tenders shall not be less than 21 days. (*Local Government (General) Regulation 2005 clause 167*)

Any tender not meeting the requirements stated in *Local Government (General) Regulation 2005 clause 177*, for tender closing time and mode of transmission cannot be considered.

The tender period may be varied in certain circumstances subject to compliance with statutory processes. (*Local Government (General) Regulation 2005 clauses 170 & 171*)

**10.7. Criteria for Selection**

- a) The criteria for selection should be clearly set at the beginning of the tendering process, and stated in the tender documents.
- b) The criteria must be set in a way that all potential tenderers are assessed on an equal and consistent basis.
- c) Criteria should not be based on price alone. Attention has to be given also to the quality of work, expertise, experience of staff, financial capacity, previous contracts, reference checks, delivery times, etc relevant to the competing tenders.
- d) Where appropriate and subject to the Trade Practices Act and National Competition Policy requirements, Council's preference may be to give 5% to Bathurst Region based tenderers as stated in the evaluation criteria.

**10.8. Changes to Tender Documents**

If it becomes necessary during the tender period to change any of the tender documents, the appropriate officer, must ensure that all tenderers are notified of the changes at least three days before the closing time for tenders.

If substantial changes become necessary which are likely to prevent tenderers from completing a bona fide tender or which materially change the nature of the contract, the tendering process should be cancelled and fresh tenders called.

**10.9. Advertisement**

- (a) To invite tenders, an advertisement must publish an advertisement inviting tenders for the proposed contract—
  - (i) on the website of the council, and

- (ii) in any other manner that the council considers necessary to bring it to the attention of persons who may be interested in tendering for the proposed contract, which may include:
- a Sydney metropolitan daily newspaper, and
  - either or both of the following:
    - a newspaper circulating in the Council's area;
    - a newspaper circulating in the district where potential tenderers are likely to be carrying on business or to be residing.
- (Local Government (General) Regulation 2005 clauses 164,167,168,169)*
- (b) The advertisement must:
- (i) identify the tender number
  - (ii) express the purpose of the proposed contract and a description of the works/goods or services required  
*(Local Government (General) Regulation 2005 cl.167 (2))*
  - (iii) give details of where and when tender documents relating to the proposed contract can be obtained and the purchase price of those documents (if appropriate)
  - (iv) specify that all tenders must be addressed to the General Manager in strict confidentiality
  - (v) invite any person willing to fulfil the requirements of the proposed contract to submit a tender to the Council by the specified deadline
  - (vi) specify closing date and time (a minimum of 21 days after the date of the first publication of the tender advertisement)
  - (vii) specify the name of the Council contact officer (the appropriate person) to whom requests for information concerning the proposed contract may be addressed and how the person can be contacted
  - (viii) include a statement advising that tenderers envelopes containing any written information other than the tender number or description will not be considered
  - (ix) specify that the lowest or any tender may not necessarily be accepted by Council; and
  - x) include a statement that the lobbying or liaison with Councillors prior to the consideration of tenders by Council will lead to the rejection of the offending tender.
- (c) The appropriate person is responsible for formulating the required advertisement and selecting the date(s) and arrangement for publication. A copy of the advertisement must be attached to all specification documents and placed on the tender file.
- (d) The appropriate person shall maintain a register of persons/ companies who obtain tender documents. A report shall be prepared and placed on the tender file for all tenders.

### 10.10. Submission of Tenders

It is the tenderer's responsibility to ensure his/her tender reaches the Council by the closing time for tenders. *(Local Government (General) Regulation 2005 clause 177)*

Council will receive tenders in the following formats:

- by written submission
- via electronic transfer

Council must receive the complete tender prior to the closing time.

### 10.10.1 Written Submission

- Written tenders must be enclosed in a plain sealed envelope marked "Confidential – Tender No 36.xxxxx and tender description" and addressed to the General Manager Private Mail Bag 17 Bathurst NSW 2795. Tenders received in envelopes with the tenderers name or other identifying information will not be considered.
- If the tenders are delivered by hand, they should be deposited in the tender box located in the foyer of the Civic Centre at 158 Russell Street, Bathurst. Tenders delivered by courier should be removed from the delivery bag prior to being placed in the tender box. (*Local Government (General) Regulation 2005 clause 174*)

Tenders documents must be submitted in stapled or loose leaf format only to assist Council to keep appropriate records of all tenders received.

#### **Bound documents will not be accepted.**

### 10.10.2 Submission via electronic transfer

- Tenders submitted by electronic transfer must be received by Council by prior to the closing time for tenders.
- Electronic tenders must be submitted to [council@bathurst.nsw.gov.au](mailto:council@bathurst.nsw.gov.au) or via the electronic tender portal being used by council as specified in the tender advertisement. Do not send to the appropriate person.
- The following documents from the tender specification Schedule C Tender Form & Schedules D1A, D1B, D2, D3 & D4 (where required) must be submitted as one separate file. All documents must be in PDF format with no password or Protection. The company trading name with Tender Number must be included in the filename (Example :acme\_roads\_scheduleC\_36-00111)\_
- All other documents are to be submitted as a separate attachment with the company trading name, attachments and the tender number included in the file name.( Example :acme\_roads\_attachments\_36-00111). All documents must be in PDF format with no password or Protection.
- The above two documents may be zipped to allow for easier submission but must be provided in a .zip format only.

The Records Supervisor is responsible for ensuring that such tenders are enveloped and marked for identification, and deposited in the tender box until the closing time for tenders. (*Local Government (General) Regulation 2005*)

*clause 173)*

In the case of tenders being received by an electronic tendering method, Council does not require a hard copy to be received.

- (a) The methods of tender submission mentioned above must be specified in the tender documents.
- (b) The tender box and its security are the responsibility of the Manager Financial Services. Tenders received must remain locked in the tender box until the closing time for tenders.

#### **10.11. Opening of Tenders**

- (a) The tenders must be opened by the appropriate person (*Local Government (General) Regulation 2005 clause 164*) in the presence of:
  - i. at least two officers delegated by the General Manager. (*Local Government (General) Regulation 2005 clause 175 (i) (a)*)
  - ii. Any tenderers and members of the public who wish to attend.

Any person who attends the opening, is entitled, on request, to be informed as to whether the Council has received a particular tender and the number of tenders received and is not entitled to receive any other information about the tenders. (*Local Government (General) Regulation 2005 clause 175 (2)*)

In the case of tenders being received by an electronic tendering method, the Records Supervisor will be responsible for downloading the tender submissions and electronically forwarding the tender form to the Manager Financial Services or other appropriately appointed officer for recording of the tenders received in accordance with item (a) above.

- (b) The Tender Box will be cleared as soon as practicable after the closing time for the tender (usually 2.00 pm on Tuesday) and tenders received will be recorded. Electronic tenders through portals such as Tenderlink will be downloaded from the electronic portal as soon as practicable after the closing time for the tender. They will then be processed by the Records Section and forwarded to the Manager Financial Services (or the appropriate person in the absence of the MFS).
- (c) As soon as practicable after the tenders for a proposed contract have been opened, the Manager Financial Services or the appropriate person must prepare a public tender list specifying, the names of the tenderers in alphabetical order. (*Local Government (General) Regulation 2005 clause 175 (3)*) and must be signed by the Officers who attend the opening.
- (d) This public tender list is to be placed on the Council notice board in the foyer (*Local Government (General) Regulation 2005 clause 175 (4)*) and is to be removed after the Council meeting at which the tender is considered. A copy of the list is to be held on the file.

#### **10.12. Assessment of Tenders**

- (a) Assessment must be performed by the Appropriate Person and any



other Council officer considered appropriate to the tender based on the pre-set criteria specified in the tender document.

- (b) The details of all tenders received should be checked by the Appropriate Person against the specification. All the checking work must be properly documented and placed on the tender file.
- (c) The Appropriate Person may, in some circumstances, search for independent source/s of reference in addition to those provided by the tenderer to ensure a more accurate assessment.
- (d) Reports must be prepared for every assessment meeting and the basis of assessment of tenders recorded and placed on the tender file.
- (e) If it is considered that the interests of Council will not be best served by acceptance of any of the tenders submitted, the reasons for such conclusion should be recorded and placed on the tender file.
- (f) Tenders may be varied by way of (a) explanation or clarification or (b) correcting a mistake or anomaly. If such variation becomes necessary, all tenderers who have the same or similar characteristics must be afforded the opportunity of varying their tenders in a similar manner. The relevant statutory provisions must be observed. (*Local Government (General) Regulation 2005 176(2)*). Such a variation may be either made at the request of the Council or with the consent of Council at the request of the tenderer.

Council must not consider such a variation if it would substantially alter the original tender. (*Local Government (General) Regulation 2005 176(4)*).

### **10.13. Recommendation and Approval**

- (a) After going through the assessment process, a formal recommendation shall be prepared by the Appropriate Person.
- (b) The recommendation should include the details of tendering procedures, a list of names and amounts of tenderers, the tenderer selected, the rationale of selection and any other details necessary for the final decision.
- (c) The recommendation must be submitted to the Council for approval. Purchases through approved bodies such as Local Government Procurement do not require Council approval.
- (d) After considering the recommended tenderer, the Council must either accept one of the tenders or accept no tenders. If the Council decides not to accept any of the tenders, it must by resolution, do one of the following:
  - (i) postpone or cancel the proposal for the contract;
  - (ii) invite in accordance with clause 167, 168 or 169 fresh tenders based on the same or different details;
  - (iii) invite, in accordance with clause 168, fresh applications from persons interested in tendering for the proposed contract,
  - (iv) invite, in accordance with clause 169, fresh applications from persons interested in tendering for contracts of the same kind as the proposed contract,

- (v) enter into negotiations with any person (whether or not that person was a tenderer) with a view to entering into a contract
  - (vi) carry out the requirements of the proposed contract itself. (*Local Government (General) Regulation 2005 clause 178*)
- (e) Reports to Council about tenders and recommendations in respect thereof shall be confidential.

#### 10.14. Tender Notification

- (a) As soon as a decision is reached, all tenderers are to be notified of Council's decision (*Local Government (General) Regulation 2005 179*). The letter advising unsuccessful tenderers will include the following information;
- that their tender was unsuccessful and
  - the name of the successful tenderer
- (b) A letter of acceptance is to be sent to the successful tenderer within two days of the ordinary Meeting advising of Council's determination and outlining steps that need to be taken by the Contractor to establish the contract.
- (c) All the notifications shall be made in writing and sent by post/email.
- (d) In a case where no tender is accepted, the following procedure will apply.
- all tenderers are to be notified of Council's decision that no tender was accepted by Council.
  - all notifications shall be made in writing and sent by post/email.

#### 10.15. Record Keeping Requirements

In order to ensure transparency in the tender process it is necessary to record all information on the Council file. This will include but is not limited to the following information:-

- Advertisement
- Tender specification
- Any additional information supplied after commencement of the advertising process
- Record of site meeting (if held)
- Records of all assessment panel meetings
- Any clarification of tenders received
- Recommendation and report to council
- Signed contract

### 11. PURCHASES OF A RECURRENT NATURE

11.1. To avoid the necessity of repeating the full set of tendering procedures on each recurring purchase, the following methods or any other alternative methods as considered appropriate and approved by the General Manager or appropriate Director may be adopted:

- (i) period contract (where a single contractor/supplier is selected for a specified period); or
- (ii) approval list, where:
  - based on the tenders/quotations received, a list is drawn up of

service providers who comply with the quotation requirements; The list will show the service provider/contactors' name, the service provided and the price quoted.

- Council has resolved to approve the list, with preference generally being given in each particular instance, to the lowest price tender/quotation, subject to availability, and satisfactory service;
- any subsequent work should be given to contractors **on the approved list only**. No new contractor should be allowed to carry out the work, irrespective of price, without the calling of fresh tenders/quotations.

11.2. Nothing in this section precludes the option of calling of separate tenders or quotations for works of a similar nature, for a specific work or project, if there is reason to believe this may result in advantage to Council.

11.3. Both types of contracts as described in 11.1 should be renewed with fresh tenders or quotations invited on the expiry of the existing contract period.

11.4. Except for the difference mentioned in 11.1, the same procedures described in the previous part of this document should be applied.

## 12. ASSESSMENT

The officer calling for quotations is to summarise quotes received, and submit the summary to the General Manager, or delegated officer to accept quotations.

## 13. INDEPENDENCE AND EQUITY

13.1. No member of staff may take any part in the preparation, administration or assessment of tenders/quotations if he/she is related to or in any manner associated with a prospective tenderer/supplier or person acting for a prospective tenderer.

13.2. Any member of staff who becomes aware of a potential conflict of interest because of his/her relationship to or association with any tenderer/supplier or prospective tenderer/supplier shall immediately notify the designated officer, in writing, and shall take no further part in the proceedings relating to that tender.

13.3. The Appropriate Officer shall ensure that :

- (i) no discrimination is allowed to apply to or against any tenderer/supplier; and
- (ii) that all tenderers/suppliers are provided with the same information in relation to the tender/quotation.

## 14. CONFIDENTIALITY

14.1. The Appropriate Officer has the obligation to keep all tendering and quotation information confidential.

14.2. All Council officers associated with the tender or quotation in any manner whatsoever, have the duty to keep all tendering information confidential.

- 14.3. When required to be submitted in the Quotation/Tender Box all quotations/tenders should be submitted in a plain sealed envelope marked 'Confidential – Quotation/Tender No xx.xxxxx and quotation/tender description' and addressed to the General Manager (PMB 17 or 158 Russell Street Bathurst NSW 2795). Quotations/Tenders identified in this manner must upon receipt be immediately placed in the Quotation/Tender Box.
- 14.4. Tenders and quotations received by email shall be transmitted to the Appropriate Officer after closing time, by the Records Supervisor.
- 14.5. Tendering information should not be disclosed without the permission of the tenderer, except that information required to be disclosed under the Local Government Act, 1993 and Regulation.
- 14.6. Reports to Council relating to tenders shall contain only as much information about individual tenders as is necessary to allow Council to reach its decision.

**15. LOCAL GOVERNMENT ACT**

- 15.1. This set of purchasing procedures is designed specifically for Bathurst Regional Council.
- 15.2. This policy is to be implemented in addition to the Local Government Act 1993 and the Local Government (General) Regulation 2005 and any other legislative requirements.
- 15.3. For any matters stated in the Local Government Act 1993 but not included here, the Act is to be followed.
- 15.4. For any conflicts between this policy and the Local Government Act 1993, the Act prevails.

**16. DEFINITIONS****APPROPRIATE PERSON**

In relation to a tender submitted to a council, means a person designated by the General Manager to receive or deal with tenders submitted to the council and, if a person is not designated, means the General Manager. (Local Government (General) Regulation 2005)

**ACCOUNTS PAYABLE**

One to whom money is due. The Accounts Payable Section within the Corporate Services and Finance Department is responsible for processing and recording credit transactions.

**CONTRACT**

An agreement enforceable by law between two or more parties for the supply of goods, works or services.

**QUOTATION**

A quotation is an offer made by a supplier to Council for goods, works or services at a price.

**TENDERS**

A tender is an offer made by a supplier of goods, works or services to supply nominated goods, works or services for a price to Council and is in accordance with

the Regulations of the Local Government Act, 1993 and the Local Government (General) Regulation 2005.

## APPENDIX 1

Please do not use a copy of this page but go to the Council intranet for the latest version of this form.



Civic Centre  
158 Russell Street  
BATHURST NSW 2795

Telephone 02 6333 6111  
Facsimile 02 6331 7211  
council@bathurst.nsw.gov.au  
www.bathurst.nsw.gov.au  
www.bathurstregion.com.au

Correspondence to:  
Private Mail Bag 17  
BATHURST NSW 2795

### HIGHER DUTIES FORM

**TO:** Director Corporate Services & Finance

**FROM:** \_\_\_\_\_ (Dept Head)

**DATE:** \_\_\_/\_\_\_/\_\_\_

**SUBJECT:** HIGHER DUTIES RECOMMENDATION

\_\_\_\_\_ has been requested to carry out the duties of  
Name of Employee  
\_\_\_\_\_ from \_\_\_/\_\_\_/\_\_\_ to \_\_\_/\_\_\_/\_\_\_ as  
Position relieving in  
\_\_\_\_\_ is on  
Name of normal Job holder

- Annual Leave       Sick Leave       Long Service Leave  
 Other (please specify)

I recommend that higher duties be paid at a rate of \$ \_\_\_\_\_ per week.

Signed: \_\_\_\_\_  
DEPARTMENT HEAD

Higher duties detailed above have been  approved /  not been approved.

Signed: \_\_\_\_\_  
Director Corporate Services & Finance

(Payroll office use only)

PAYROLL NO.		Week Ending	Amount
HIGHER DUTIES ALLOCATION	\$		\$
NORMAL WEEKLY PAY	\$		\$
HIGHER DUTIES RATE OF PAY	\$		\$
DIFFERENCE TO BE PAID	\$		\$

.....  
This section of AUTHORISED form to be forwarded to PURCHASING OFFICER

\_\_\_\_\_ is authorised to exercise the delegations of  
Name of Employee  
\_\_\_\_\_ from \_\_\_/\_\_\_/\_\_\_ to \_\_\_/\_\_\_/\_\_\_ as  
Position relieving in      Start of Leave      End of Leave  
\_\_\_\_\_ is on leave.  
Name of normal Job holder

Signature: \_\_\_\_\_  
Director Corporate Services & Finance

*The information on this form is being collected to allow Council to process your application and/or carry out its statutory obligations. All information collected will be held by Council and will only be used for the purpose for which it was collected. An individual may view their personal information and may correct any errors.*

Ref: 08.00016/119	Issue Date: 1 July 2013	Review Date: 1 July 2014	Page 1 of 1
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**APPENDIX 2****SUPPLIERS EXEMPT FROM REQUIREMENT TO OBTAIN QUOTATIONS**

SUPPLIER NAME	GOODS/SERVICE PROVIDED
Jardine Lloyd Thompson	Insurance renewals (annual)
Ministry for Police & Emergency Services	Statutory Contributions to RFS, SES & FRNSW (quarterly)
Statecover Mutual	Workers Compensation Insurance renewal (annual)
Statewide Mutual	Public Liability/ Professional Indemnity Insurance renewals (annual)
Tenders	Progress payments for tenders adopted by Council and within the tendered figure.
Preferred Suppliers List	Suppliers approved by resolution of Council as “preferred suppliers” for a specific period
Energy Suppliers eg Essential Energy, Origin etc.,	For supply of energy only as there is only one supplier in each area.
State Government Departments	Generally these would be State Govt imposed charges and there are no other suppliers.
Western Advocate	Only newspaper circulating in the local area.
Federal Government Departments	Generally these would be Federal Govt imposed charges and there are no other suppliers.
Roads and Maritime Services	This is a State Govt department which council deals with regularly
CENTROC	Council contributes to CENTROC initiatives and there is no alternative supplier
Crennan Legal	Specialist law firm dealing in Local Government and Planning Legislation
Upper Macquarie County Council	Council has delegated its Noxious Weed function to UMCC and there is no other supplier

Appendix 2: Date Last Updated \_\_/\_\_/\_\_\_\_

\_\_\_\_\_  
David Sherley, General Manager.

# **Bathurst Regional Council Code of Conduct**

**Adopted September 2020**



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## PART 1 INTRODUCTION

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

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

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

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

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

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

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

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

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

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

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

## **PART 2 DEFINITIONS**

In this code the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
committee	see the definition of “council committee”
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures.
conduct	includes acts and omissions
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council’s audit, risk and improvement committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council’s audit, risk and improvement committee
council official	includes councillors, members of staff of a council, administrators, council committee members, delegates of council and, for the purposes of clause 4.16, council advisers
councillor	any person elected or appointed to civic office, including the mayor and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns

environmental planning instrument	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 400O of the LGA
LGA	<i>Local Government Act 1993</i>
local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
mayor	includes the chairperson of a county council or a joint organisation
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	Office of Local Government
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the <i>Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW</i> prescribed under the Regulation
the Regulation	the <i>Local Government (General) Regulation 2005</i>
voting representative	a voting representative of the board of a joint organisation
wholly advisory committee	a council committee that the council has not delegated any functions to

## **PART 3 GENERAL CONDUCT OBLIGATIONS**

### General conduct

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

### Fairness and equity

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

### Harassment and discrimination

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

## Bullying

- 3.8 You must not engage in bullying behaviour towards others.
- 3.9 For the purposes of this code, “bullying behaviour” is any behaviour in which:
- a) a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons, and
  - b) the behaviour creates a risk to health and safety.
- 3.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- a) aggressive, threatening or intimidating conduct
  - b) belittling or humiliating comments
  - c) spreading malicious rumours
  - d) teasing, practical jokes or ‘initiation ceremonies’
  - e) exclusion from work-related events
  - f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
  - g) displaying offensive material
  - h) pressure to behave in an inappropriate manner.
- 3.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:
- a) performance management processes
  - b) disciplinary action for misconduct
  - c) informing a worker about unsatisfactory work performance or inappropriate work behaviour
  - d) directing a worker to perform duties in keeping with their job
  - e) maintaining reasonable workplace goals and standards
  - f) legitimately exercising a regulatory function
  - g) legitimately implementing a council policy or administrative processes.

## Work health and safety

- 3.12 All council officials, including councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WHS Act). You must comply with your duties under the WHS Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:
- a) take reasonable care for your own health and safety
  - b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
  - c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WHS Act and any policies or procedures adopted by the council to ensure workplace health and safety
  - d) cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that has been notified to council staff
  - e) report accidents, incidents, near misses, to the general manager or such other staff member nominated by the general manager, and take part in any incident investigations

- f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WHS Act in relation to the same matter.

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

- 3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.
- 3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

### Binding caucus votes

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

### Obligations in relation to meetings

- 3.19 You must comply with rulings by the chair at council and committee meetings or other proceedings of the council unless a motion dissenting from the ruling is passed.
- 3.20 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other council officials or any members of the public present during council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).
- 3.21 You must not engage in conduct that disrupts council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.

3.22 If you are a councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the council, or of a committee of the council. Without limiting this clause, you must not:

- a) leave a meeting of the council or a committee for the purposes of depriving the meeting of a quorum, or
- b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or
- c) deliberately seek to impede the consideration of business at a meeting.



## PART 4 PECUNIARY INTERESTS

### What is a pecuniary interest?

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

### What interests do not have to be disclosed?

- 4.6 You do not have to disclose the following interests for the purposes of this Part:
- (a) your interest as an elector
  - (b) your interest as a ratepayer or person liable to pay a charge
  - (c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is

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

- (n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or a council committee member
- (o) an interest arising from the appointment of a councillor to a body as a representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

4.7 For the purposes of clause 4.6, “relative” has the same meaning as in clause 4.4, but includes your spouse or de facto partner.

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

4.8 Designated persons include:

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

4.9 A designated person:

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

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

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

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

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

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

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

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

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, or
  - (b) at any time during which the council or committee is voting on any question in relation to the matter.
- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council

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.

## **PART 5 NON-PECUNIARY CONFLICTS OF INTEREST**

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

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

### Managing non-pecuniary conflicts of interest

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



- close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household
- b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
  - c) an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
  - d) membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
  - e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
  - f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.

5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:

- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
- b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.

5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.

5.12 If you are a member of staff of council other than the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the general manager, the decision on which option should be taken

to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the mayor.

- 5.13 Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.
- 5.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

### Political donations

- 5.15 Councillors should be aware that matters before council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.
- 5.16 Where you are a councillor and have received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
  - b) the major political donor has a matter before council,
- you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A disclosure made under this clause must be recorded in the minutes of the meeting.
- 5.17 For the purposes of this Part:
- a) a “reportable political donation” has the same meaning as it has in section 6 of the *Electoral Funding Act 2018*
  - b) “major political donor” has the same meaning as it has in the *Electoral Funding Act 2018*.
- 5.18 Councillors should note that political donations that are not a “reportable political donation”, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of clause 5.9 and take the appropriate action to manage them.
- 5.19 Despite clause 5.16, a councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

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

- 5.20 A councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary

conflict of interest in the matter is permitted to participate in consideration of the matter if:

- a) the matter is a proposal relating to:
  - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
  - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
- b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person's principal place of residence, and
- c) the councillor discloses the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part in accordance with clause 5.6.

5.21 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- b) that it is in the interests of the electors for the area to do so.

5.22 Where the Minister exempts a councillor or committee member from complying with a requirement under this Part under clause 5.21, the councillor or committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

#### 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.

## PART 6 PERSONAL BENEFIT

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

### Gifts and benefits

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

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

- 6.5 You must not:
- a) seek or accept a bribe or other improper inducement
  - b) seek gifts or benefits of any kind
  - c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
  - d) subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9

- e) accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
- f) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer–supplier relationship with the competition organiser
- g) personally benefit from reward points programs when purchasing on behalf of the council.

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

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

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

#### Gifts and benefits of token value

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

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

#### Gifts and benefits of more than token value

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

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

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

associated with that person or organisation, during the same 12-month period would exceed \$100 in value.

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

### “Cash-like gifts”

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

### Improper and undue influence

6.14 You must not use your position to influence other council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the proper exercise of their role as prescribed under the LGA.

6.15 You must not take advantage (or seek to take advantage) of your status or position with council, or of functions you perform for council, in order to obtain a private benefit for yourself or for any other person or body.

## **PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALS**

### Obligations of councillors and administrators

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

### Obligations of staff

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



- e) ensure that any participation in political activities outside the service of the council does not interfere with the performance of their official duties.

#### Inappropriate interactions

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

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

## **PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES**

### Councillor and administrator access to information

- 8.1 The general manager is responsible for ensuring that councillors and administrators can access information necessary for the performance of their official functions. The general manager and public officer are also responsible for ensuring that members of the public can access publicly available council information under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 8.2 The general manager must provide councillors and administrators with the information necessary to effectively discharge their official functions.
- 8.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to exercise their official functions and in accordance with council procedures.
- 8.4 Members of staff of council who provide any information to a particular councillor in the performance of their official functions must also make it available to any other councillor who requests it and in accordance with council procedures.
- 8.5 Councillors and administrators who have a private interest only in council information have the same rights of access as any member of the public.
- 8.6 Despite clause 8.4, councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public, or the council has determined to make the information available under the GIPA Act.

### Councillors and administrators to properly examine and consider information

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

### Refusal of access to information

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

### 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:
- a) the representation of members with respect to disciplinary matters
  - b) the representation of employees with respect to grievances and disputes
  - c) functions associated with the role of the local consultative committee.
- 8.15 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.
- 8.16 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 8.17 You must not use council resources (including council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 8.18 You must not use the council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material:
- a) for the purpose of assisting your election campaign or the election campaign of others, or
  - b) for other non-official purposes.
- 8.19 You must not convert any property of the council to your own use unless properly authorised.

### Internet access

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

### Council record keeping

- 8.21 You must comply with the requirements of the *State Records Act 1998* and the council's records management policy.
- 8.22 All information created, sent and received in your official capacity is a council record and must be managed in accordance with the requirements of the *State Records Act 1998* and the council's approved records management policies and practices.
- 8.23 All information stored in either soft or hard copy on council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the council and will be treated as council records, regardless of

whether the original intention was to create the information for personal purposes.

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

### Councillor access to council buildings

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

**PART 9 MAINTAINING THE INTEGRITY OF THIS CODE**

Complaints made for an improper purpose

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

Detrimental action

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

Compliance with requirements under the Procedures

- 9.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral

submission invited under the Procedures will not constitute a breach of this clause.

9.8 You must comply with a practice ruling made by the Office under the Procedures.

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

9.9 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.

9.10 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.

9.11 You must not make allegations about, or disclose information about, suspected breaches of this code at council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.

9.12 You must not disclose information about a complaint you have made alleging a breach of this code or any other matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.

9.13 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the *Public Interest Disclosures Act 1994*.

### Complaints alleging a breach of this Part

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

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

## 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 returnsReal 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]*

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#### C. Gifts

Description of each gift I received at any time since 30 June	Name and address of donor
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#### 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
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#### E. Interests and positions in corporations

Name and address of each corporation in which I had an interest (if interest or held a position at the return date/at any time since 30 June	Nature of any	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)
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F. Were you a property developer or a close associate of a property developer on the return date? (Y/N)

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#### 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
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#### H. Debts

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

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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

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**J. Discretionary disclosures**

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**SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST SUBMITTED UNDER CLAUSE 4.37**

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Model Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Model Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests by *[full name of councillor]*

in the matter of *[insert name of environmental planning instrument]*

which is to be considered at a meeting of the *[name of council or council committee (as the case requires)]*

to be held on the                      day of                      20     .

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (the identified land)	
Relationship of identified land to the councillor <i>[Tick or cross one box.]</i>	<input type="checkbox"/> The councillor has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest <sup>1</sup>	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) <sup>2</sup> <i>[Tick or cross one box]</i>	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control <i>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>	

<sup>1</sup> Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.

<sup>2</sup> A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest.

Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on councillor or associated person <i>[Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]</i>	

*[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]*

Councillor's signature

Date

[This form is to be retained by the council's general manager and included in full in the minutes of the meeting]

**Bathurst Regional Council  
Procedures for the  
Administration of the  
Code of Conduct**

**Adopted September 2020**

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## PART 1 INTRODUCTION

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.

## PART 2 DEFINITIONS

In these procedures the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
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 and the council's audit, risk and improvement committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council's audit, risk and improvement committee
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 4000 of the LGA
LGA	the <i>Local Government Act 1993</i>
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 <i>Local Government (General) Regulation 2005</i>
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

### **PART 3 ADMINISTRATIVE FRAMEWORK**

#### The establishment of a panel of conduct reviewers

3.1 The council must establish a panel of conduct reviewers.

- 3.2 The council may 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. 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.

#### **PART 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 3 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.

**PART 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.

**PART 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 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 the formal censure of a councillor under section 440G of the LGA or disciplinary action against the general manager under their contract of employment if it were to be proven, 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 formal censure of a councillor under section 440G of the LGA or disciplinary action against the general manager under their contract of employment, 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.

**PART 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 do not 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 a period of not less than 14 days 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 a period of not less than 14 days 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 a period of not less than 14 days 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 their final 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 a period of not less than 14 days 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 a period of not less than 14 days 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 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.

- 7.37 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may recommend:
- a) in the case of a breach by the general manager, that disciplinary action be taken under the general manager's contract of employment for the breach, or
  - b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA, or
  - c) 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.
- 7.38 Where the investigator proposes to make a recommendation under clause 7.37(c), 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.
- 7.39 Where the investigator has determined that there has been a breach of the code of conduct, the investigator may, in addition to making a recommendation under clause 7.37, recommend that the council revise any of its policies, practices or procedures.
- 7.40 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may recommend:
- a) that the council revise any of its policies, practices or procedures
  - b) that a person or persons undertake any training or other education.
- 7.41 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 under clause 7.37, 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.
- 7.45 Where it is apparent to the complaints coordinator that the council will not be able to form a quorum to consider the investigator's report, the complaints coordinator must refer the investigator's report to the Office for its consideration instead of reporting it to the council under clause 7.44.

### Consideration of the final investigation report by council

- 7.46 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 7.37.
- 7.47 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.
- 7.48 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.
- 7.49 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.
- 7.50 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.
- 7.51 The council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.

- 7.52 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.
- 7.53 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.
- 7.54 The investigator may make additional enquiries for the purpose of preparing a supplementary report.
- 7.55 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.
- 7.56 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.
- 7.57 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.
- 7.58 A council may by resolution impose one of the following sanctions on a respondent:
- a) in the case of a breach by the general manager, that disciplinary action be taken under the general manager's contract of employment for the breach, or
  - b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA, or
  - c) 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.
- 7.59 Where the council censures a councillor under section 440G of the LGA, the council must specify in the censure resolution the grounds on which it is satisfied that the councillor should be censured by disclosing in the resolution, the investigator's findings and determination and/or such other grounds that the council considers may be relevant or appropriate.
- 7.60 The council is not obliged to adopt the investigator's recommendation. Where the council proposes not to adopt the investigator's recommendation, the council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.

7.61 Where the council resolves not to adopt the investigator's recommendation, the complaints coordinator must notify the Office of the council's decision and the reasons for it.

### **PART 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 7.58, paragraph (c), 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. 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.

8.20 Where, having reviewed its previous decision in relation to a matter under clause 8.19(b), the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.

## **PART 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.

## **PART 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.

**PART 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.

**PART 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 a period of not less than 14 days 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.

### ***Addendum A***

Council adopted the following criteria to provide clarification and assistance when dealing with the Code of Conduct Procedures.

#### Criteria 1

Any approach to the defining of access rights of people to the Code of Conduct - Reporting of Breaches, Complaint Handling Procedures and Sanctions process, must begin with the understanding that:

- (a) criticism and complaints are a legitimate and necessary part of the relationship between Councils and their customers or communities, and may be dynamic forces for improvement within Councils, and,
- (b) nobody, no matter how much time and effort is taken up in responding to his or her complaints or concerns, should be unconditionally deprived of the right to have those concerns addressed.

As Councils also have an obligation to use resources efficiently and effectively, at some point it may be necessary and reasonable for the Council to decide to limit the nature or scope of its responses to difficult complainants. However, these situations should be the exception rather than the rule.

#### Criteria 2

Any allegations that the Code of Conduct Committee is unlawfully constituted because it does not give notice of its meetings and permit Councillors who are not members of the Committee to attend in breach of the Local Government Act have no foundation in law and will not be acted upon (refer BRC's General Manager's Ordinary Report No 6, 15 March 2006).

#### Criteria 3

A complaint that deals with the same subject matter as a previous complaint that has been dealt with under the Code of Conduct process, and does not provide substantive new information shall not be reconsidered (Refer BRC's Code of Conduct Committee: Report No 3, 19 April 2006 and No 1, 21 June 2006).

#### Criteria 4

It is not a matter for the Code of Conduct to stifle debate, even if it is robust debate. Debate in the Chamber is a matter for control at the meeting. (Refer BRC's Code of Conduct Committee Report No 3, 19 April 2006).

#### Criteria 5

Matters outside the jurisdiction of the Council will not be investigated.

#### Criteria 6

There will sometimes be occasions where a complaint which might otherwise justify investigations should not or cannot be pursued eg: where issues raised in the complaint occurred a long time ago (in such cases it may be difficult to

track witnesses and/or documents, recollections of events will be limited and evidence unavailable as a result of the passage of time).

Consideration of such factors can be taken into account when considering complaints.

### Criteria 7

Complaints that do not raise substantive issues but are a vehicle of abuse of Councillors, members of staff and delegates, will not be referred to the Code of Conduct Committee.

### Criteria 8

Where a person's behaviour becomes so unreasonable the Code of Conduct process will have regard to the following behavioural triggers.

It is important to note that the mere fact that a complainant is persistent, makes demands or may be angry does not mean that their conduct is unreasonable. "Unreasonableness" needs the conduct to go beyond the norm of situational stress that many complaints experience (Refer also Criteria 1).

#### **1. Unreasonable Persistence:**

- persisting with a complaint even though it has been comprehensively considered by an agency, and all avenues of review have been exhausted.
- reframing a complaint in an attempt to get it taken up again.
- showing an inability to accept the final decision.
- insisting that a particular solution is the correct one in the face of valid contrary or alternative arguments.
- persisting in interpreting the law or policy in a way that is not in accordance with generally accepted or expert views on the issue and insisting that action be taken accordingly.
- persisting in wanting to know where to go next, when it has been explained that there is nowhere else to go.
- demanding a review because it is available, but not arguing a case for a review.
- making an issue out of anything.
- getting gratification from the process of regular contact with the case officer, possibly including inventing unnecessary reasons for having such contact.

#### **2. Unreasonable Demands:**

- insisting on outcomes that are unattainable.
- insisting on a "moral" outcome, eg justice in the community interest, when really a personal interest is at stake.
- demanding an apology or compensation when no reasonable basis for expecting such outcomes exists.
- wanting revenge, retribution.
- wanting what is not possible or appropriate, eg copies of sensitive documents, names and contact details of staff, other complainants or whistleblowers.

- issuing instructions and making demands about how a complaint should be handled.
- providing supporting details that are extraordinarily detailed when such detail is not relevant to the complaint.
- making unreasonable resource demands, out of proportion to the seriousness of issue.
- wanting regular and lengthy phone contact where this is not warranted.
- showing reactions or demand for action that are out of proportion to the significance of the issue.
- moving the goal posts - changing the desired outcome.
- shopping for a sympathetic ear in the agency - demanding to talk to a supervisor or the Manager personally.
- placing the agency on an extensive email copy list and expecting responses to these emails.
- consistently creating complexity where there is none.
- presenting as overly needy or dependent (eg wanting to transfer responsibility for their well-being to the complaint handler or agency).

### **3. Unreasonable lack of co-operation:**

- presenting a large quantity of information which is not organised, sorted, classified, summarised, where the complainant is clearly capable of doing this.
- presenting information in dribs and drabs - refusing to present all information at the outset.
- refusing to define issues of complaints "the attached (usually a large quantity of information) speaks for itself" - where the complainant is clearly capable of doing this.
- focusing on principles rather than substantive issues.
- changing the complaint and raising new issues while the complaint is in the process of being considered.
- displaying unhelpful behaviour, eg withholding information, being dishonest, misquoting others, swamping the agency with documents.

### **4. Unreasonable arguments:**

- holding irrational beliefs, eg seeing cause and effect links where there are clearly none.
- holding what is clearly a conspiracy theory unsupported by any evidence.
- interpreting facts in a clearly irrational/unreasonable way and insisting this interpretation is the correct one.
- insisting on the importance of an issue that is clearly trivial.
- arguing the clearly bizarre.

### **5. Unreasonable behaviour:**

- displaying confronting behaviour, eg rudeness, aggression, threats or harassment.
- sending rude, confronting or threatening letters.
- making threats of self harm.
- making threats of harm to others.
- displaying manipulative behaviour (overly ingratiating, tears or veiled threats).

<b>POLICY:</b>	CODE OF MEETING PRACTICE
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance's Report #9 Policy 6 March 2019 Council 19 June 2019 Minute Book No. 12989
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services & Finance's Report #9 Policy 6 March 2019 Council 19 June 2019 Minute Book No. 12989
<b>FILE REFERENCE:</b>	07.00064, 07.00065
<b>OBJECTIVE:</b>	To establish set guidelines for the conduct of Council's Meetings

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## 1 INTRODUCTION

This Code of Meeting Practice for Bathurst Regional Council is made under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).

This code applies to all meetings of Council and Council's committees 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 Council determines otherwise.

## 2 MEETING PRINCIPLES

### 2.1 Council and committee meetings should be:

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

contributes to the orderly conduct of the meeting.

### 3 BEFORE THE MEETING

#### Timing of ordinary council meetings

- 3.1 Ordinary meetings of Council will commence at 6:00pm or immediately following the conclusion of Public Forum on the third Wednesday of each month, except that the December meeting will be held on the second Wednesday, and the January meeting will be held on the first Wednesday in February.
- 3.2 An Ordinary meeting of Council will be held, if required, on the first Wednesday of each month. This meeting will commence at 6:00pm or immediately following the Policy Committee and will include matters considered urgent by the Mayor, Councillors or General Manager and Reports of Officers to facilitate decision making.
- 3.3 Council may change the time or date of any particular meeting, by resolution at a preceding meeting, without prior notice being given.

**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.**

#### Extraordinary meetings

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

**Note: Clause 3.4 reflects section 366 of the Act.**

#### Notice to the public of council meetings

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

**Note: Clause 3.5 reflects section 9(1) of the Act.**

- 3.6 For the purposes of clause 3.5, 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.
- 3.7 For the purposes of clause 3.5, notice of more than one (1) meeting may be given in the same notice.

### Notice to councillors of ordinary council meetings

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

**Note: Clause 3.8 reflects section 367(1) of the Act.**

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

**Note: Clause 3.9 reflects section 367(3) of the Act.**

### Notice to councillors of extraordinary meetings

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

**Note: Clause 3.10 reflects section 367(2) of the Act.**

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

- 3.11 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 eight (8) business days before the meeting is to be held.
- 3.12 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.
- 3.13 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.
- 3.14 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.

### Questions with notice

- 3.15 A councillor may, by way of a notice submitted under clause 3.11, ask a question for response by the general manager about the performance or operations of the council.
- 3.16 A councillor is not permitted to ask a question with notice under clause 3.15 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.

The general manager or their nominee may respond to a question with notice submitted under clause 3.15 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

### Agenda and business papers for ordinary meetings

- 3.17 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- 3.18 The general manager must ensure that the agenda for an ordinary meeting of the council states:
- (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
  - (b) if the mayor is the chairperson – any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
  - (d) any business of which due notice has been given under clause 3.11.
- 3.19 Nothing in clause 3.18 limits the powers of the mayor to put a mayoral minute to a meeting under clause 9.6.
- 3.20 The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.
- 3.21 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public, the general manager must ensure that the agenda of the meeting:
- (a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
  - (b) states the grounds under section 10A(2) of the Act relevant to the item of business.

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

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



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

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

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

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

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

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

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

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

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

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

### Agenda and business papers for extraordinary meetings

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

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

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

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

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

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

#### **4 PUBLIC FORUMS**

- 4.1 The council may hold a public forum prior to each ordinary meeting of the council (with the exception of the Ordinary Meeting after the Policy Committee) for the purpose of hearing oral submissions from members of the public. Public Forums will commence prior to the start of the Ordinary Meeting at 6.00 p.m.
- 4.2 Public forums are to be chaired by the mayor or their nominee.
- 4.3 Nominated candidates at federal, state or local government elections are not permitted to speak at a public forum.
- 4.4 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 speaking at the public forum.
- 4.5 Each speaker will be allowed three (3) minutes to address the council, with a one (1) minute warning sounded at two (2) minutes. This time is to be strictly enforced by the chairperson.
- 4.6 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.
- 4.7 Speakers are under no obligation to answer a question put under clause 4.4. Answers by the speaker, to each question are to be limited to one (1) minute.
- 4.8 Speakers at public forums cannot ask questions of the council, councillors or council staff. Questions may be asked of council staff. Questions of council staff may be taken on notice with a response being provided subsequent to the meeting.
- 4.9 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.
- 4.10 Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.
- 4.11 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.
- 4.12 If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.9, 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.

- 4.13 Clause 4.12 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.
- 4.14 Where a speaker engages in conduct of the type referred to in clause 4.11, the chairperson may refuse further requests from that person to speak at public forums for such a period as the chairperson considers appropriate.
- 4.15 Councillors (including the mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.

**Note: Public forums are not 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 in as part of a council or committee meeting, it must be conducted in accordance with the other requirements of this code relating to the conduct of council and committee meetings.***

## 5 COMING TOGETHER

### Attendance by councillors at meetings

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

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

- 5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting, unless permitted to attend the meeting by audio-visual link under this code.
- 5.3 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.
- 5.4 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.

- 5.5 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.
- 5.6 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: Clause 5.6 reflects section 234(1)(d) of the Act.**

- 5.7 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.

### The quorum for a meeting

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

**Note: Clause 5.8 reflects section 368(1) of the Act.**

- 5.9 Clause 5.8 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

**Note: Clause 5.9 reflects section 368(2) of the Act.**

- 5.10 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.

- 5.11 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.

- 5.12 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.

- 5.13 Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the health, safety or welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster or a public health emergency, the mayor may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner

that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.

- 5.14 Where a meeting is cancelled under clause 5.13, 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 3.4.

### Meetings held by audio-visual link

- 5.15 A meeting of the council or a committee of the council may be held by audio-visual link where the mayor determines that the meeting should be held by audio-visual link because of a natural disaster or a public health emergency. The mayor may only make a determination under this clause where they are satisfied that attendance at the meeting may put the health and safety of councillors and staff at risk. The mayor must make a determination under this clause in consultation with the general manager and, as far as is practicable, with each councillor.

- 5.16 Where the mayor determines under clause 5.15 that a meeting is to be held by audio-visual link, the general manager must:

- (a) give written notice to all councillors that the meeting is to be held by audio-visual link, and
- (b) take all reasonable steps to ensure that all councillors can participate in the meeting by audio-visual link, and
- (c) cause a notice to be published on the council's website and in such other manner the general manager is satisfied will bring it to the attention of as many people as possible, advising that the meeting is to be held by audio-visual link and providing information about where members of the public may view the meeting.

- 5.17 This code applies to a meeting held by audio-visual link under clause 5.15 in the same way it would if the meeting was held in person.

**Note: Where a council holds a meeting by audio-visual link under clause 5.15, it is still required under section 10 of the Act to provide a physical venue for members of the public to attend in person and observe the meeting.**

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

- 5.18 Councillors may attend and participate in meetings of the council and committees of the council by audio-visual link with the approval of the council or the relevant committee.
- 5.19 A request by a councillor for approval to attend a meeting by audio-visual link must be made in writing to the general manager prior to the meeting in question and must provide reasons why the councillor will be prevented from attending the meeting in person.
- 5.20 Councillors may request approval to attend more than one meeting by audio-visual link. Where a councillor requests approval to attend more than one meeting by audio-

visual link, the request must specify the meetings the request relates to in addition to the information required under clause 5.19.

- 5.21 The council must comply with the Health Privacy Principles prescribed under the Health Records and Information Privacy Act 2002 when collecting, holding, using and disclosing health information in connection with a request by a councillor to attend a meeting by audio-visual link.
- 5.22 A councillor who has requested approval to attend a meeting of the council or a committee of the council by audio-visual link may participate in the meeting by audio-visual link until the council or committee determines whether to approve their request and is to be taken as present at the meeting. The councillor may participate in a decision in relation to their request to attend the meeting by audio-visual link.
- 5.23 A decision whether to approve a request by a councillor to attend a meeting of the council or a committee of the council by audio-visual link must be made by a resolution of the council or the committee concerned. The resolution must state:
  - (a) the meetings the resolution applies to, and
  - (b) the reason why the councillor is being permitted to attend the meetings by audio-visual link where it is on grounds other than illness, disability, or caring responsibilities.
- 5.24 If the council or committee refuses a councillor's request to attend a meeting by audio-visual link, their link to the meeting is to be terminated.
- 5.25 A decision whether to approve a councillor's request to attend a meeting by audio-visual link is at the council's or the relevant committee's discretion. The council and committees of the council must act reasonably when considering requests by councillors to attend meetings by audio-visual link. However, the council and committees of the council are under no obligation to approve a councillor's request to attend a meeting by audio-visual link where the technical capacity does not exist to allow the councillor to attend the meeting by these means.
- 5.26 The council and committees of the council may refuse a councillor's request to attend a meeting by audio-visual link where the council or committee is satisfied that the councillor has failed to appropriately declare and manage conflicts of interest, observe confidentiality or to comply with this code on one or more previous occasions they have attended a meeting of the council or a committee of the council by audio-visual link.
- 5.27 This code applies to a councillor attending a meeting by audio-visual link in the same way it would if the councillor was attending the meeting in person. Where a councillor is permitted to attend a meeting by audio-visual link under this code, they are to be taken as attending the meeting in person for the purposes of the code and will have the same voting rights as if they were attending the meeting in person.
- 5.28 A councillor must give their full attention to the business and proceedings of the meeting when attending a meeting by audio-visual link. The councillor's camera must be on at all times during the meeting except as may be otherwise provided for under this code.
- 5.29 A councillor must be appropriately dressed when attending a meeting by audio-visual link and must ensure that no items are within sight of the meeting that are inconsistent

with the maintenance of order at the meeting or that are likely to bring the council or the committee into disrepute.

### Entitlement of the public to attend council meetings

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

**Note: Clause 5.30 reflects section 10(1) of the Act.**

5.31 Clause 5.30 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.

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

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

**Note: Clause 5.32 reflects section 10(2) of the Act.**

**Note: Clause 15.14 authorises chairpersons to expel persons other than councillors from a council or committee meeting.**

### Webcasting of meetings

5.33 Each meeting of the council or a committee of the council is to be recorded by means of an audio or audio-visual device.

5.34 At the start of each meeting of the council or a committee of the council, the chairperson must inform the persons attending the meeting that:

- (a) the meeting is being recorded and made publicly available on the council's website, and
- (b) persons attending the meeting should refrain from making any defamatory comments.

5.35 The recording of a meeting is to be made publicly available on the council's website:

- (a) at the same time as the meeting is taking place, or
- (b) as soon as practicable after the meeting.

5.36 The recording of a meeting is to be made publicly available on the council's website for at least 12 months after the meeting. Recordings of meetings may be disposed of in accordance with the State Records Act 1998.

**Note: (1) Clauses 5.35 and 5.36 do not apply to any part of a meeting that has been closed to the public in accordance with section 10A of the Act.**

**(2) Clauses 5.33-5.36 reflect section 236 of the Regulation.**

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

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

**Note: Clause 5.37 reflects section 376(1) of the Act.**

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

**Note: Clause 5.38 reflects section 376(2) of the Act.**

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

**Note: Clause 5.39 reflects section 376(3) of the Act.**

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

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

## **6 THE CHAIRPERSON**

### The chairperson at meetings

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

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

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

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

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

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

6.4 The election of a chairperson must be conducted:

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



- 6.5 If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- 6.6 For the purposes of clause 6.5, the person conducting the election must:
- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
  - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- 6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.
- 6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

### Chairperson to have precedence

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

## **7 MODES OF ADDRESS**

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

## **8 ORDER OF BUSINESS FOR ORDINARY COUNCIL MEETINGS**

- 8.1 The general order of business for an ordinary meeting of the council shall be:
- 1. Opening of meeting
  - 2. Prayer
  - 3. Acknowledgement of country
  - 4. Apologies and applications for a leave of absence or attendance by audio-visual link by councillors
  - 5. Confirmation of minutes
  - 6. Declaration of interests
  - 7. Mayoral minute(s)
  - 8. Receive and Deal with General Manager's and Directors' Reports
  - 9. Reports of committees
  - 10. Notices of motions/Questions with notice
  - 11. Rescission Motions

- 12. Councillor/Delegates Reports
- 13. Confidential matters
- 14. Conclusion of the Meeting

8.2 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.

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

8.3 Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 8.2 may speak to the motion before it is put.

### 9 CONSIDERATION OF BUSINESS AT COUNCIL MEETINGS

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

- 9.1 The council must not consider business at a meeting of the council:
- (a) unless a councillor has given notice of the business, as required by clause 3.11, and
  - (b) unless notice of the business has been sent to the councillors in accordance with clause 3.8 in the case of an ordinary meeting or clause 3.10 in the case of an extraordinary meeting called in an emergency.
- 9.2 Clause 9.1 does not apply to the consideration of business at a meeting, if the business:
- (a) is already before, or directly relates to, a matter that is already before the council, or
  - (b) is the election of a chairperson to preside at the meeting, or
  - (c) subject to clause 9.9, is a matter or topic put to the meeting by way of a mayoral minute, or
  - (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.
- 9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:
- (a) a motion is passed to have the business considered at the meeting, and
  - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.
- 9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

#### Mayoral minutes

- 9.6 Subject to clause 9.9, if the mayor is the chairperson at a meeting of the council, the mayor may, by minute signed by the mayor, put to the meeting without notice

any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.

- 9.7 A mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the mayor) may move the adoption of a mayoral minute without the motion being seconded.
- 9.8 A recommendation made in a mayoral minute put by the mayor is, so far as it is adopted by the council, a resolution of the council.
- 9.9 A mayoral minute must not be used to put without notice matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.10 Where a mayoral minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation.

### Staff reports

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

### Reports of committees of council

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

### Questions

- 9.14 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.11 and 3.15.
- 9.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.
- 9.16 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the general manager at the direction of the general manager.
- 9.17 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to information. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.

- 9.18 Councillors must put questions directly, succinctly, respectfully and without argument.
- 9.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

### **10 RULES OF DEBATE**

#### Motions to be seconded

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

#### Notices of motion

- 10.2 A councillor who has submitted a notice of motion under clause 3.11 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.3 If a councillor who has submitted a notice of motion under clause 3.11 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.
- 10.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:
- (a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or
  - (b) the chairperson may defer consideration of the motion until the next meeting of the council.

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

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

#### Motions requiring the expenditure of funds

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

from the general manager on the availability of funds for implementing the motion if adopted.

### Amendments to motions

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

### Foreshadowed motions

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

### Limitations on the number and duration of speeches

- 10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of

general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.

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

## 11 VOTING

### Voting entitlements of councillors

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

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

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

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

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

### Voting at council meetings

- 11.4 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.
- 11.5 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.
- 11.6 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.
- 11.7 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.
- 11.8 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 11.4 of this code.
- 11.9 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.

### Voting on planning decisions

- 11.10 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.
- 11.11 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.
- 11.12 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.
- 11.13 Clauses 11.11–11.13 apply also to meetings that are closed to the public.

**Note: Clauses 11.11–11.14 reflect section 375A of the Act.**

**Note: The requirements of clause 11.11 may be satisfied by maintaining a register of the minutes of each planning decision.**

### 12 COMMITTEE OF THE WHOLE

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

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

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

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

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

### 13 DEALING WITH ITEMS BY EXCEPTION

- 13.1 The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution.
- 13.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.
- 13.3 The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.
- 13.4 Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.2.
- 13.5 A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.
- 13.6 Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.



- 13.7 Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 13.1 in accordance with the requirements of the council's code of conduct.

### 14 CLOSURE OF COUNCIL MEETINGS TO THE PUBLIC

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

- 14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:
- (a) personnel matters concerning particular individuals (other than councillors),
  - (b) the personal hardship of any resident or ratepayer,
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
  - (d) commercial information of a confidential nature that would, if disclosed:
    - (i) prejudice the commercial position of the person who supplied it, or
    - (ii) confer a commercial advantage on a competitor of the council, or
    - (iii) reveal a trade secret,
  - (e) information that would, if disclosed, prejudice the maintenance of law,
  - (f) matters affecting the security of the council, councillors, council staff or council property,
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
  - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
  - (i) alleged contraventions of the council's code of conduct.

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

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

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

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

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

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

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

- involved, and
- (b) are clearly identified in the advice, and
- (c) are fully discussed in that advice.

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

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

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

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

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

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

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

Notice of likelihood of closure not required in urgent cases

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

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

Representations by members of the public

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

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

- 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by 12 noon before the meeting at which the matter is to be considered.
- 14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 14.13 No more than five (5) speakers are to be permitted to make representations under clause 14.9.
- 14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council.
- 14.15 The general manager (or their delegate) is to determine the order of speakers.
- 14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than five (5) speakers to make representations in such order as determined by the chairperson.
- 14.17 Each speaker will be allowed two (2) minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

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

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

from that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.

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

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

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

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

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

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

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

## 15 KEEPING ORDER AT MEETINGS

### Points of order

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

### Questions of order

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

### Motions of dissent

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

### Acts of disorder

- 15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:
- (a) contravenes the Act or the Regulation or this code, or
  - (b) assaults or threatens to assault another councillor or person present at the meeting, or
  - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or
  - (d) insults, makes unfavourable personal remarks about, or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
  - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.

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

- 15.12 The chairperson may require a councillor:
- (a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a), (b) or (e), or

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

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

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

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

### Expulsion from meetings

- 15.14 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of the council or the committee of the council.
- 15.15 Clause 15.14, 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.
- 15.16 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

**Note: Clause 15.16 reflects section 233(2) of the Regulation.**

- 15.17 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.
- 15.18 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.
- 15.19 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

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

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

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

- 15.22 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.
- 15.23 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.
- 15.24 Without limiting clause 15.17, a contravention of clause 15.23 or an attempt to contravene that clause, constitutes disorderly conduct for the purposes of clause 15.17. Any person who contravenes or attempts to contravene clause 15.23, may be expelled from the meeting as provided for under section 10(2) of the Act.
- 15.25 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

## **16 CONFLICTS OF INTEREST**

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

## **17 DECISIONS OF THE COUNCIL**

Council decisions

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

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

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

Rescinding or altering council decisions

17.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.11.

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

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

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

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

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

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

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

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

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

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

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

17.9 A notice of motion submitted in accordance with clause 17.6 may only be withdrawn under clause 3.12 with the consent of all signatories to the notice of motion.

17.10 A notice of motion to alter or rescind a resolution relating to a development application must be submitted to the general manager no later than 12 noon on the first working day after the meeting at which the resolution was adopted.



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

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

## **18 AFTER THE MEETING**

### Minutes of meetings

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

**Note: Clause 18.1 reflects section 375(1) of the Act.**

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

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

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

**Note: Clause 18.3 reflects section 375(2) of the Act.**

- 18.4 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.

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

**Note: Clause 18.5 reflects section 375(2) of the Act.**

- 18.6 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.

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

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

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

**Note: Clause 18.8 reflects section 11(1) of the Act.**

18.9 Clause 18.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

**Note: Clause 18.9 reflects section 11(2) of the Act.**

18.10 Clause 18.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

**Note: Clause 18.10 reflects section 11(3) of the Act.**

18.11 Correspondence or reports to which clauses 18.9 and 18.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

### Implementation of decisions of the council

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

**Note: Clause 18.12 reflects section 335(b) of the Act.**

## **19 COUNCIL COMMITTEES**

### Application of this Part

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

### Council committees whose members are all councillors

19.2 The council may, by resolution, establish such committees as it considers necessary.

19.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.

19.4 The quorum for a meeting of a committee of the council is to be:

- (a) such number of members as the council decides, or
- (b) if the council has not decided a number – a majority of the members of the committee.

### Functions of committees

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

### Notice of committee meetings

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

### Attendance at committee meetings

- 19.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:
- (a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
  - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- 19.9 Clause 19.8 does not apply if all of the members of the council are members of the committee.

### Non-members entitled to attend committee meetings

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

### Chairperson and deputy chairperson of council committees

- 19.11 The chairperson of each committee of the council must be:
- (a) the mayor, or
  - (b) if the mayor does not wish to be the chairperson of a committee, a member of the committee elected by the council, or
  - (c) if the council does not elect such a member, a member of the committee elected by the committee.
- 19.12 The council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.

- 19.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.
- 19.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

### Procedure in committee meetings

- 19.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.
- 19.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 19.15.
- 19.17 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

### Closure of committee meetings to the public

- 19.18 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.
- 19.19 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.
- 19.20 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 19.19 during a part of the meeting that is webcast.

### Disorder in committee meetings

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

### Minutes of council committee meetings

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

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

- 19.23 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.
- 19.24 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.
- 19.25 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.
- 19.26 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.
- 19.27 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.

### Timing of Policy Committee meetings

- 19.28 Policy Committee meetings of council will commence at 6:00pm on the first Wednesday of each month except for January, where no meeting is held.

### Order of Business of Policy Committee meetings

- 19.29 The general order of business for a Policy Committee meeting of the council shall be:
1. Opening of meeting
  2. Prayer
  3. Acknowledgement of Country
  4. Apologies and applications for leave of absence by Councillors
  5. Confirmation of minutes
  6. Declaration of interest
  7. Mayor's reports
  8. General Manager's and Directors' Reports
  9. General business
  10. Submission hearing
  11. Conclusion of the Meeting
- 19.30 The order of business as fixed under clause 20.30 may be altered for a particular policy committee meeting of council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

19.31 Despite clauses 10.20-10.30, only the mover of a motion referred to in clause 20.31 may speak to the motion before it is put.

**20 IRREGULARITIES**

20.1 Proceedings at a meeting of a council or a council committee are not invalidated because of:

- (a) a vacancy in a civic office, or
- (b) a failure to give notice of the meeting to any councillor or committee member, or
- (c) any defect in the election or appointment of a councillor or committee member, or
- (d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or
- (e) a failure to comply with this code.

**Note: Clause 20.1 reflects section 374 of the Act.**

**21 DEFINITIONS**

the Act	means the <i>Local Government Act 1993</i>
act of disorder	means an act of disorder as defined in clause 15.11 of this code
amendment	in relation to an original motion, means a motion moving an amendment to that motion
audio recorder	any device capable of recording speech
audio-visual link	means a facility that enables audio and visual communication between persons at different places
business day	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales
chairperson	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 19.11 of this code
this code	means the council's adopted code of meeting practice
committee of the council	means a committee established by the council in accordance with clause 19.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1
council official	has the same meaning it has in the Model Code of Conduct for Local Councils in NSW

## Attachment 6.1.10.1

day	means calendar day
division	means a request by two councillors under clause 11.6 of this code requiring the recording of the names of the councillors who voted both for and against a motion
foreshadowed amendment	means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment
foreshadowed motion	means a motion foreshadowed by a councillor under clause 10.17 of this code during debate on an original motion
nominated candidate	Persons listed at the close of nominations by the Returning Officer for the election as a candidate formally nominated for the election
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

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

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

### What's new or changing

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

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**What this will mean for your council**

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

**Key points**

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

**Where to go for further information**

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



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<b>POLICY:</b>	GOVERNANCE – PAYMENT OF EXPENSES AND PROVISION OF FACILITIES FOR COUNCILLORS
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance Report #1 Policy 4 September 2019 Council 16 October 2019 Minute Book No. 13040  Director Corporate Services & Finance Report #1 Policy 3 July 2019 Council 17 July 2019 Minute Book No. 12999
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services & Finance Report #1 Policy 1 December 2004 Council 8 December 2004 Minute Book No. 9416
<b>FILE REFERENCE:</b>	11.00008
<b>OBJECTIVE:</b>	Provide guidelines for payment of expenses and provision of facilities for Councillors in accordance with the Local Government Act.

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**1. PURPOSE**

Section 252 of the Local Government Act 1993, requires Councils to adopt a policy for the payment of expenses and provision of facilities to the Mayor, Deputy Mayor and Councillors.

The policy identifies expenses that will be paid and facilities that will be provided, to the Mayor, Deputy Mayor and Councillors in relation to discharging the functions of civic office.

**In the event that an Administrator is appointed for Bathurst Regional Council, this policy will apply to the Administrator in the same manner as the Mayor.**

**2. OBJECTIVE**

- To ensure that no Councillors suffer hardship by reason of meeting their civic responsibilities as an elected person.
- To adequately reimburse Councillors for expenses incurred in the performance of their duties, including expenses incurred in becoming adequately informed on subjects relevant to their civic duties.

**3. STATEMENT OF PRINCIPLES**

The Councillors are the elected governing body of Bathurst. To assist them to discharge their civic, statutory and policy making functions, they are entitled to be provided with the range of necessary facilities and to be reimbursed the expenses specified in this policy.

Recognising the special role of the Mayor this policy allows for the payment of some additional expenses and the provision of some additional facilities.

Claims for facilities and expenses not included in the policy will not be approved.

Where replacement equipment or facilities is required, Council's policy on plant and asset replacement will be followed. Equipment and facilities will be compatible with and of the same standard as other Council equipment and facilities.

Council's facilities and services, as detailed in this Policy, are available to Councillors while carrying out the functions of civic office. These facilities and services are not available for use by members of a Councillor's family, unless the use is directly related to attendance at a civic function or to another aspect of the Councillor's civic duties.

#### **4. LEGISLATIVE & LEGAL REQUIREMENTS**

The Local Government Act 1993 (Chapter 9, Part 2, Division 5) states:

##### 248 Fixing and payment of annual fees for Councillors

- (1) A Council must pay each Councillor an annual fee.
- (2) A Council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (3) The annual fee so fixed must be the same for each Councillor.
- (4) A Council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.

##### 248A Annual fees or other remuneration not to be paid during period of suspension

A council must not at any time pay any fee or other remuneration, to which a councillor would otherwise be entitled as the holder of a civic office, in respect of any period during which:

- (a) the councillor is suspended from civic office under this Act, or
- (b) the councillor's right to be paid any fee or other remuneration is suspended under this Act,

unless another provision of this Act specifically authorises payment to be made, or specifically permits a person to authorise payment to be made, when the suspension is terminated.

##### 249 Fixing and payment of annual fees for the Mayor

- (1) A Council must pay the Mayor an annual fee.
- (2) The annual fee must be paid in addition to the fee paid to the Mayor as a Councillor.
- (3) A Council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.
- (4) A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal..
- (5) A Council may pay the Deputy Mayor (if there is one) a fee determined by the Council for such time as the Deputy Mayor acts in the office of the Mayor. The amount of the fee so paid must be deducted from the Mayor's annual fee.

##### 250 At what intervals are fees to be paid?

Fees payable under this Division by a Council are payable monthly in arrears for each month (or part of a month) for which the Councillor holds office."

##### 251 What is the consequence of paying fees?

- (1) A person is not, for the purposes of any Act, taken to be an employee of a Council and is not disqualified from holding civic office merely because the person is paid a fee under this Division.
- (2) A fee paid under this Division does not constitute salary for the purposes of any Act.”

### 252 Payment of expenses and provision of facilities

- (1) Within the first 12 months of each term of a council, the council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.
- (3) A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.
- (4) A council may from time to time amend a policy under this section.
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.

### 253 Requirements before policy concerning expenses and facilities can be adopted or amended

- (1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.
- (2) Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.
- (3) Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.
- (4) (Repealed)
- (5) A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.

### 254 Decision to be made in open meeting – Section 254

The Council or a Council committee all the members of which are Councillors must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or at which any proposal concerning those matters is discussed or considered.

### 254A Circumstances in which annual fees may be withheld

- (1) Despite this Division, a council may resolve that an annual fee will not be paid to councillor or that a councillor will be paid a reduced annual fee determined by the council:
  - (a) for any period of not more than 3 months for which the councillor is absent, with or without leave, from an ordinary meeting or ordinary meetings of the council, or
  - (b) in any other circumstances prescribed by the regulations.

**Note.** Section 428 (2) (f) requires a council to include, in its annual report:

- the total amount of money expended during the year on mayoral fees and councillor fees

- the council's policy on the provision of facilities for, and the payment of expenses to councillors
  - the total amount of money expended during the year on providing those facilities and paying those expenses.
- (2) Despite this Division, if a councillor is absent, with or without leave of the council, from ordinary meetings of the council for any period of more than 3 months, the council must not pay any annual fee, or part of an annual fee, to that councillor that relates to the period of absence that is in excess of 3 months.

The Local Government (General) Regulation 2005 states:

404 Circumstances in which Councillors' annual fees may be reduced or not paid.

For the purposes of Section 254(A) of the Act, the prescribed circumstance for the non-payment or reduction of a Councillor's annual fee is the circumstance where both of the following conditions are satisfied:

- (a) The payment of the annual fee adversely affects the Councillor's entitlement to a pension, benefit or allowance under any legislation of the Commonwealth, a Territory or a State (including NSW),
- (b) The Councillor agrees to a non-payment or reduction.

### **5. REPORTING REQUIREMENTS**

The Local Government Act, 1993 imposes reporting requirements on Councils. Council's Annual Report satisfies the reporting requirements imposed under the Local Government Act 1993 and the Local Government (General) Regulation 2005.

### **6. OTHER GOVERNMENT POLICY PROVISIONS**

This policy has been developed in accordance with the following policies and documents provided by various government departments.

- Office of Local Government Guidelines for Payment of Expenses and Provision of Facilities to Mayors and Councillors.
- Office of Local Government Circulars (issued from time to time) including but not limited to:-
  - 04/04 Appropriate Controls on the use of Council Credit Cards
  - 05/08 Legal Assistance for Councillors and Council Employees
  - 08/24 Misuse of Council Resources
  - 08/37 Council decision making prior to ordinary elections
- Office of Local Government Model Code of Conduct.
- Council's Adopted Code of Conduct
- Various ICAC Publications.

### **7. ANNUAL FEE**

Pursuant to Section 248 of the Local Government Act, 1993, an annual fee will be paid to each Councillor in twelve instalments (monthly in arrears). In addition to this, the Mayor will be paid an annual fee in accordance with Section 249 of the Act, to be paid in twelve instalments (monthly in arrears). The amount to be paid will be as determined by the Local Government Remuneration Tribunal and adopted in Council's Management Plan for that year.

Councillor's will be entitled to Superannuation payments from 1 July 2022 at the equivalent amount provided for, under the Commonwealth superannuation legislation the payment will need to be made into a complying superannuation fund which will be nominated by the Councillor. [Refer DCSF #7.1.2 Extraordinary meeting 23 June 2021].

### **8. ACCESS AND USE OF FACILITIES/EQUIPMENT**

Councillors are to be provided with access and use of the following:

- (i) A room suitably furnished for use by all Councillors;
- (ii) Access to a motor vehicle if available, or alternative arrangement (eg hire car), for the purposes of attending official functions or meetings outside the Council area; (see also Clause 15);
- (iii) Use of Council photocopiers, telephones, computers, (& associated equipment) and fax machine in the course of the Councillor undertaking official business.

#### **(iv) Access to Council Operated Facilities**

To assist Councillors to understand the operations of and to promote the various facilities to the community, Council will provide each Councillor with

- (a) annual admission (for the use of the Councillor only) to the following Council operated facilities:
  - Australian Fossil and Mineral Museum
  - National Motor Racing Museum
  - Chifley Home and Education Centre
  - Rail Museum
- (b) two adult tickets (for the use of the Councillor and their spouse/partner) to each of the Theatre Season performances at the Bathurst Memorial Entertainment Centre.

#### **(v) Access to Motor Sport Events**

To assist Councillors to promote Bathurst and network with dignitaries, Council will provide four (4) tickets per Councillor to attend all days of each motor racing event (including attendance at Mayoral functions) that requires full track closure at Mount Panorama.

At some events, Councillors may be provided with access to a reserved parking allocation for one vehicle per Councillor.

In addition to those facilities/equipment listed above, the Mayor will be provided with the use of:

- (vi) An office suitably furnished
- (vii) Mayoral robes and chains;

- (viii) A corporate credit card to meet expenses connected with the entertainment of guests of the city;
- (ix) A “Rex” card to allow the Mayor access to the Rex lounge at the airport for the conduct of meetings and whilst waiting between meetings and flights (a card will also be provided to the Deputy Mayor for official use).

**9. PROVISION OF EQUIPMENT**

Each Councillor will be provided with the following:

- (i) Business cards.
- (ii) Councillor letterhead.
- (iii) A name badge.
- (iv) Stationery, office supplies and other consumables.
- (v) Provision of car parking sticker for parking in designated/authorised parking areas.
- (vi) A corporate credit card to meet expenses as authorized in carrying out the Councillor’s role.
- (vii) Each Councillor will be provided with the following for Council use:
  - A computer, e.g. i-Pad or Laptop and associated equipment (printer etc.)
  - Access to the internet.
  - Facsimile transmission device (Fax) (including installation at the principal place of residence).
  - A document shredder.

NB: All rental, call and stationery costs incurred in the course of Council activities will be met by Council.

- (viii) Councillors will have the following options in relation to telephone calls made in the course of Council business:
  - a. Council will reimburse Councillors for the cost of official mobile and landline calls made in the course of Council business up to a limit of \$100 per month. Claims for reimbursement of calls must be made on the appropriate expenditure claim form.
  - or**
  - b. Council will provide Councillors with a mobile phone for Council business, limited to an amount of \$100 per month.

In addition to the equipment listed above the Mayor will be provided with the following:

- (ix) A mobile phone with rental and all charges to be met by Council;
- (x) A motor vehicle (including private use) on the basis that all costs are met by the Council. NOTE – that during periods of “leave of absence” of the Mayor the vehicle will be made available to the Deputy Mayor under the same terms and conditions.
- (xi) A permanently allocated parking space.

**Note: A person's re-election to the Council is considered a personal interest. Official Council material such as letterhead, publications, websites, email, as well as council services and forms must not be used for any such personal interests.**

### **9.1 Acquisition and Return of Council Equipment and Facilities by Councillors**

All equipment provided to the Mayor, Deputy Mayor or a Councillor to assist them to carry out their official duties remains the property of Council and is to be returned to Council upon the Mayor or the Councillor ceasing to hold office.

A Councillor may at the cessation of their duties request to purchase the equipment provided to them for their official duties or part thereof. Any items offered for sale to a Councillor under this clause will be offered on the basis that they are valued at a fair market price or the current written down value, whichever is the greater.

### **9.2 Private Benefit**

Councillors should not generally use Council equipment for their own personal benefit. However, it is acknowledged that incidental use of Council equipment for private benefit may occur. Such incidental use will not be subject to repayment.

Where more substantial use of Council equipment occurs Council will seek reimbursement at a rate determined by the

- (i) Mayor/Deputy Mayor and the General Manager or
- (ii) the Council,

depending upon the circumstances.

## **10. ADMINISTRATIVE SUPPORT**

Councillors will be provided with secretarial support in relation to official correspondence.

## **11. TRAINING**

Councillors will be provided with training to enhance their ability to carry out their civic responsibilities. An allowance is made in the annual budget for provision of training to Councillors. The type of training attended would normally be approved by the Council but may, in some circumstances, be approved by the Mayor.

## **12. INSURANCE**

Council will provide appropriate insurance for Councillors including insurance against personal injury whether fatal or not, arising out of, or in the course of carrying out duties, or the performance by such Councillor at functions in his/her capacity as a member of Council.

Council will provide the following Insurance cover for Councillors undertaking official Council business:

- Public Liability.
- Councillors and Officers.



- Personal Accident.
- Travel Insurance (where approved) for interstate and overseas travel on Council business.

### 13. SUSTENANCE/MEALS

Councillors are entitled to the provision of a meal and/or refreshments in conjunction with the Committee/Council meeting or at any official ceremony authorised by Council or the Mayor, or in carrying out their Councillor's responsibilities including meetings with residents, ratepayers or guests of the city.

### 14. LEGAL

In the event that indemnity is not granted under the existing Councillors and Officers liability policy in relation to:

- (a) any enquiry, investigation or hearing into the conduct of a Councillor:
- (i) by the Independent Commission Against Corruption;
  - (ii) by the Office of the Ombudsman;
  - (iii) by the Administrative Decisions Tribunal;
  - (iv) by the Office of Local Government, Department of Premier and Cabinet
  - (v) by the NSW Police Force;
  - (vi) by the Director of Public Prosecutions;
  - (viii) by Council's Conduct Review Committee/Reviewer
  - (ix) by the Local Government Pecuniary Interest Tribunal; or
  - (ix) pursuant to FOI legislation;
  - (x) pursuant to Privacy and Personal Information Protection legislation

- (b) legal proceedings against a Councillor:

Council shall reimburse such Councillor on a solicitor/client basis for all legal and associated expenses properly and reasonably incurred having regard to the nature of the enquiry, investigation, hearing or proceedings, provided that:

- (i) the enquiry, investigation, hearing or proceedings relate to conduct arising out of or in connection with a Councillor's performance of his or her civic duty or the exercise of his or her functions as a Councillor;
- (ii) the enquiry, investigation, hearing or proceedings have been finalised and have resulted in a finding, in the opinion of the Council, substantially favourable to the Councillor;
- (iii) the amount of any such reimbursement shall be limited to the amount of moneys that are not otherwise recoverable by a Councillor on any other basis;
- (iv) the Council authorises the reimbursement by resolution.

Note: Council cannot pay any legal expenses for

- (a) legal proceedings initiated by a councillor
- (b) a councillor seeking legal advice in respect of possible defamation

### 15. EXPENSES

- (a) Council will reimburse claims for expenses for actual costs incurred by Councillors in relation to discharging the functions of civic office.

The fundraising activities of political parties, including political fundraising events, are considered to be personal interests. Council will not pay expenses or provide facilities to councillors in relation to supporting and/or attending such activities and events.

- (b) In relation to discharging the functions of civic office, the following facilities will be provided:

- Mayoral Office.
- Councillors' meeting room.
- Provision of a meal/refreshments in conjunction with the Committee/Council meeting.

- (c) Where a Councillor provides his/her own motor vehicle for transport in relation to discharging the functions of civic office, reimbursement of costs will be made on either:

- (i) a per kilometre basis at the rates specified under Clause 4 of the Local Government (State) Award, or
- (ii) based on the presentation of a fuel docket/receipt.

- (d) Where travel is by air, Council will pay the cost of an economy class ticket.

- (e) Costs of vehicle hire, taxi fares and/or public transport which are reasonably incurred while attending conferences will be reimbursed by the Council.

- (f) Council will reimburse the cost of parking fees (upon the provision of an appropriate receipt) and the cost of any road tolls paid while on Council business.

In regard to "functions of Civic Office", the following guide is provided:

Travel expenses relate to travel that is on Council business (this can be within NSW or interstate, where approved), including:

- to and from Council meetings;
- to and from Committee meetings, Working Parties etc of which the Councillor is a member;
- to and from meetings of external bodies to which the Councillor is an approved delegate;
- inspections within the area of the Council where such inspections have been arranged by a resolution of Council, or by Mayoral approval;
- to and from the periodical conferences, training courses and seminars of Local Government related organisations at which attendance has been approved by a resolution of Council or by Mayoral approval;
- to and from public meetings where such meetings have been arranged by a resolution of Council or by Mayoral approval.

NB: For the purposes of this Policy, travel within the ACT is regarded as travel within NSW.

Payment is subject to:

- the travel being undertaken expediently and by the shortest practicable route;
- claims must be made within three (3) months of incurring the expense;
- wherever possible and appropriate, a Council vehicle will be made available for use by a Councillor travelling outside the Bathurst Regional Council boundary on Council approved business.

N.B. The driver of the vehicle (whether a Council vehicle or private vehicle) will be personally responsible for all traffic or parking fines incurred while travelling on Council business. Under no circumstances will Council reimburse costs associated with traffic or parking infringement fines.

A copy of the "Claim for Reimbursement of Expenses" form is at Appendix A.

### **15.1 Payment of expenses for spouses, partners and accompanying persons**

Council will pay the cost of attendance of a spouse, partner or accompanying person at an official function of the Council (which includes BMEC Theatre Season performances) or other official functions that are of a formal and ceremonial nature. Examples would include Citizenship ceremonies, civic receptions/functions and charitable functions for charities supported by the Council.

Council will also pay for any reasonable expenses incurred for a spouse, partner or accompanying person of the Mayor, or of a Councillor when they are representing the Mayor, when they are called upon to attend an official function of Council or, carry out an official ceremonial duty while accompanying the Mayor (or the Mayor's representative) outside the Council's area, but within the State of New South Wales. Reasonable expenses would include the cost of the ticket and meal etc.

In all other instances any costs incurred as a result of the attendance by a spouse, partner or accompanying person shall be met by the respective Councillor.

### **15.2 Payment in Advance:**

The Council will normally pay all costs associated with attendance by a Councillor on official Council business at a conference, seminar or function in advance. Where this is not appropriate or possible:

- a cash allowance or cheque equivalent thereto will be paid to the attendee in advance;
- An allowance for estimated "out-of-pocket" expenses may be paid to an attendee in advance upon request.

Payment via either of these methods will require the provision of a reconciliation statement, verification of expenses and the refund of any unexpended amount being submitted within ten (10) days of the close of the conference, seminar or function.

N.B. Councillors are provided with a credit card to minimise the requirement for payments in advance.

### **15.3 Childcare**

Council will reimburse Councillors for the cost of child care services incurred while on authorised Council business. The amount of reimbursement will be the actual cost incurred, with a maximum of \$25 per hour applying.

### **15.4 Dependant Care Related Expenses**

Council will reimburse Councillors for the reasonable cost of child/dependant care services (including care of elderly, disabled and/or sick immediate family members of Councillors) incurred while attending Council meetings, Committee meetings, workshops, briefing sessions and other meetings relating to Council's operations.

Councillors will be reimbursed for expenses associated with child/dependent care paid to providers other than immediate family, spouse or partner up to 2 hours before and after such meetings (based on advertised commencement time) subject to the prescribed form being completed and/or the production of appropriate documentation/receipts.

### **15.5 Councillor Care Related Expenses**

Council will give consideration to the payment of other related expenses associated with the special requirements of Councillors such as disability and access needs, including reasonable transportation provisions for those unable or unwilling to drive a vehicle, to allow them to perform their normal civic duties and responsibilities. Costs could include accommodation, meals and travel expenses for carers, accompanying a Councillor where required.

## **16. CORPORATE CREDIT CARD**

Councillors will, upon request, be given a Corporate Credit Card with a limit of \$1,000.

## **17. PROVISION OF COUNCIL UNIFORM**

Councillors are to be provided with a Council uniform. The initial purchase will be subsidised to a maximum of \$800.00 and thereafter an annual allowance for maintenance of a maximum \$200.00 per annum.

A councillor who is re-elected for a new term of office shall, during the first year of that term, be entitled to an allowance of up to a maximum of \$400 and thereafter the annual maintenance amount will apply.

Where Councillors are required to wear personal protective equipment (PPE), this will be provided up to a maximum of \$500 in any one term of Council.

## **18. CODE OF CONDUCT**

Councillors should be aware that where actions are taken in Breach of the Code of Conduct, the failure to comply with the Code of Conduct may be evidence of a lack of good faith which may lead to a denial of payment under the Policy.

Further, Chapter 13, Part 5 of the Local Government Act allows the Office of Local Government to surcharge Councillors to recover any deficiency or loss to Council arising from actions involving misconduct. Councillors should be aware that where actions are taken in breach of the Code of Conduct, the failure to comply with the Code of Conduct may be evidence of misconduct which may lead to personal liability pursuant to the surcharge provision of the Local Government Act in connection with such actions.

### **19. CONFERENCES**

In this part **Conference** means conferences, seminars, congresses, forums, workshops, courses, meetings, deputations, information and training sessions, events, etc. held within Australia, related to the industry of local government.

#### **19.1 Who May Attend Conferences**

Councillors may be nominated to attend conferences by:

- the Council, by resolution duly taken;
- the Mayor, acting within his/her delegated authority.

In addition the Mayor may nominate a substitute Councillor in his or her absence to attend functions within and outside the Council area on those occasions where the Mayor is unable to be in attendance.

#### **19.2 What Conferences May be Attended**

The conferences to which this policy applies shall generally be confined to:-

- Local Government NSW (LGNSW) and Australian Local Government Association(ALGA) Conferences.
- Special "one-off" conferences called or sponsored by the LGNSW and/or ALGA on important issues.
- Annual conferences of the major Professions in Local Government.
- Australian Sister Cities Conferences.
- Regional Organisation of Councils Conferences.
- Conferences, which further training and development efforts of the Council and of Councillors, or which relate to or impact upon the Council's functions.
- Any Meetings or Conferences of organisations or bodies on which a Councillor of the Council may be elected, or appointed to be, a delegate or member of the Council or the LGNSW.

Other conferences that may be attended would include those listed in the report provided to Council (from time to time) adopting the delegates/duty delegates.

#### **19.3 Registration**

The Council will pay all normal registration costs which are charged by organisers, including the costs of related official luncheons, dinners and tours which are relevant to the interests of the Council or assist Councillors to discharge the functions of their civic office.

#### **19.4 Expenses Incurred**

Payment or reimbursement of expenses incurred or to be incurred shall be subject to the requirements that:

- (a) travel expenses relate to travel that is on Council business;
- (b) the travel being undertaken with all due expedition, and by the shortest practicable route;
- (c) only reasonable amounts are claimed or accepted towards necessary out-of-pocket expenses;
- (d) out-of-pocket expenses for which amounts are claimed relate only to the verified costs of refreshments, meals, travel, registration fees, accommodation, stationery and the like;
- (e) any time occupied or travel incurred in other than Council business is not included in the calculation of expenses to be paid; and
- (f) the claim is made not later than three (3) months after the expenses were incurred, and upon copies of all relevant dockets, receipts and the like being attached to a written claim for payment/reimbursement.

### **19.5 Categories of Payment or Reimbursement**

The categories of payment or reimbursement are as follows:

#### **(a) Travel**

See Clause 15 of this policy

#### **(b) Accommodation**

Reasonable accommodation costs (including meals), including the night before and/or after the conference where this is necessary, will be met by the Council.

#### **(c) Out-of-Pocket Expenses**

Reasonable out-of-pocket or incidental expenses will be reimbursed for costs associated with attending the conference, including entertainment, but excluding expenses of a normal private nature. Incidental expenses are taken to include items such as:

- (i) hotel/motel charges other than accommodation;
- (ii) telephone, facsimile and wi-fi costs;
- (iii) refreshments/meals not included in the Registration fee;
- (iv) any optional activity in a Conference program;
- (v) taxi fares;
- (vi) parking fees.

### **19.6 Payment of Conference expenses**

Councillors, from time to time, may find it necessary to pay day-to-day expenses out of their own pocket. Councillors must then submit a claim (on the claim form attached to this policy) for reimbursement of those expenses in accordance with this policy. Payment of incidental expenses will be limited to a maximum of \$100 per day.

The General Manager reserves the right to decline the reimbursement of any expenses he/she considers to be inappropriate or unreasonable and refer them for further consideration in accordance with the dispute procedures listed in this policy.

### **19.7 Spouse/Partner**

Where the attendee is accompanied by his or her spouse/partner the attendee will pay for any cost supplement involved in the accommodation. All costs for the spouse/partner (including travel and meals) are to be borne by the attendee.

Council will pay for the attendance by a spouse or partner of an attendee at the Local Government NSW Conference. Payment of expenses in these instances will be limited to the cost of registration at the conference and the cost of the official conference dinner.

### **19.8 Reimbursement of Expenses**

All claims for reimbursement of actual expenses incurred by a Councillor in the course of their official duties are to be made under the following conditions:-

- provision of appropriate tax invoices, receipts;
- submission of claim on the Council claim form provided at Annexure A;
- all claims being submitted within 3 months of the expenditure being incurred (except as otherwise specified in this policy);
- completion of a statutory declaration.

## **20. OVERSEAS TRAVEL**

Council will pay the same expenses as detailed above (for conferences) for Councillors travelling overseas on Council business provided Council resolves that such travel be undertaken. Any proposal for overseas travel must be considered at an Open Council Meeting through a report from the General Manager or other appropriate staff member.

Reports are to indicate:

- Who is to take part in the travel;
- The objectives for undertaking the trip, including an explanation of the benefits that will accrue to the community/Council from taking the trip;
- The duration of the trip and general details of travel arrangements;
- The approximate cost of the trip, including accommodation and other expenses payable.

If the trip is to be sponsored by private enterprise, ICAC guidelines and reporting structures shall be followed.

For overseas travel, a daily meal and an incidental expenses allowance will be paid to each authorised attendee in accordance with the appropriate Australian Taxation Office Determination, provided that such expenses are subject to a period of stay not exceeding the period for the conference or authorised business plus one day each way for travelling. Any such payment will be considered as a Payment in Advance and dealt with in accordance with the requirements of clause 15.2 Payment in Advance of this policy.

Where possible proposals for overseas travel by Councillors and staff on Council business should be included in the annual management plan to ensure community awareness.

## **21. DISPUTE RESOLUTION - PAYMENT OF EXPENSE CLAIMS**

Approval for expenses claimed as a result of attendance at a conference, seminar or function for which there is no formal Council resolution to attend will normally be made jointly by the General Manager and the Mayor (or if the claim is made by the Mayor, the General Manager and the Deputy Mayor or another Councillor). In the event of a dispute as to the payment of expenses claimed by a Councillor the General Manager will prepare a report for consideration at the ordinary monthly Council meeting and the report will be provided as part of the business paper for the meeting. The Council's decision will be final.



Appendix A

Civic Centre  
158 Russell Street  
BATHURST NSW 2795

Telephone 02 6333 6111  
Facsimile 02 6331 7211  
council@bathurst.nsw.gov.au  
www.bathurst.nsw.gov.au  
www.bathurstregion.com.au

Correspondence to:  
Private Mail Bag 17  
BATHURST NSW 2795

**MEMBER FOR COUNCIL CLAIM FOR REIMBURSEMENT OF EXPENSES**

**NAME OF CLAIMANT:** .....

**ADDRESS:** .....

**In accordance with the provisions of Clause 252 of the Local Government Act, 1993, I hereby claim the amount set out hereunder for expenses for conveyance by private car and subsistence in traveling:**

**MOTOR VEHICLE USAGE CLAIM:**

DATE	Meeting / Purpose / Location	KM Travelled	Vehicle Engine Capacity	Amount \$
<b>TOTAL</b>				<b>\$</b>

**EXPENSES INCURRED:**

DATE	Meeting / Purpose / Location	Amount \$
<b>TOTAL</b>		<b>\$</b>

Signature: \_\_\_\_\_ Date: / /

**Please note, these expenses claimed will be paid directly into your nominated bank account.**

**PLEASE ATTACH ALL TAX INVOICES FOR REIMBURSEMENT**

**These expenses have been verified by me and reimbursement is authorised.**

Signature: \_\_\_\_\_ Date: / /

**GENERAL MANAGER**

<b>OFFICE USE ONLY</b>		<b>Creditor No:</b> _____
Motor Vehicle Usage Claim	\$ .	<b>03020.0330.0619</b>
Expenses	\$ .	_____
<b>TOTAL</b>	<b>\$ .</b>	_____

*The information on this form is being collected to allow Council to process your application and/or carry out its statutory obligations. All information collected will be held by Council and will only be used for the purpose for which it was collected. An individual may view their personal information and may correct any errors.*



## Fact sheet

# Disclosing political donations

(Half-yearly period 1 July to 31 December 2021)

The following information applies to political parties, elected members, candidates, groups, third-party campaigners, associated entities, party agents and official agents. Information in this fact sheet is based on the provisions of the *Electoral Funding Act 2018*. Refer to the legislation for the full requirements and/or be guided by independent legal advice.

### What is a half-yearly political donations disclosure?

Political parties and other electoral participants in New South Wales must disclose political donations every six months. A half-yearly political donation disclosure form includes political donations made and received.

### When must a half-yearly political donations disclosure be lodged?

The due date for submitting a disclosure of political donations made and received in the half-yearly period 1 July 2021 to 31 December 2021 is **Friday, 25 February 2022**.

### Who must lodge a half-yearly political donations disclosure?

All political parties and electoral participants are required to lodge a half-yearly political donations disclosure form:

- All candidates, as well as the lead candidates of groups, must disclose all political donations made and received in the half-yearly period, or lodge a "nil" disclosure form if no political donations were made or received.
- All elected members, political parties and associated entities must disclose all political donations made and received in the half-yearly period, or lodge a "nil" disclosure form if no political donations were made or received.
- Third-party campaigners must disclose all reportable political donations received during the half-yearly period that were or are intended to be used to incur electoral expenditure in the capped expenditure period for an election, or lodge a "nil" disclosure form if no reportable political donations were received.

### What are political donations?

Political donations are defined on the NSW Electoral Commission's [website](#).

Political donations include:

- monetary and non-monetary gifts
- free or discounted goods or services
- an amount paid by a person to attend or participate in a fundraising venture or function
- an annual or other subscription paid to a party by a party member or affiliate
- a disposition of property from the federal branch (or a State or Territory branch) of a party to the NSW branch of the party or a disposition of property from one NSW party to another NSW party

- uncharged or insufficient interest charged on a loan
- a contribution made by a candidate to the group of which they are a member.

**What must be disclosed?**

Political donations must be disclosed as follows:

- small political donations made and received (does not apply to third-party campaigners)
- reportable political donations made\* and received
- details of fundraising ventures and functions including the net or gross proceeds
- reportable loans received
- the total amount of annual or other subscriptions paid to a party, each subscription rate and the number of party members that paid at each rate (applies to parties only)
- political donations made to a Legislative Assembly election candidate before the candidate was selected or endorsed by a party (applies to parties only)
- payments other than political donations paid into the campaign account (applies to campaign accounts of candidates, groups and elected members only).

\* If a third-party campaigner has made reportable political donations in the half-yearly period the political donations can be disclosed in a half-yearly disclosure form, otherwise they must be disclosed in an annual major political donor disclosure form following 30 June 2022.

**Who is responsible for making the disclosure?**

Half-yearly political donation disclosure forms must be completed, signed and submitted by the person responsible for the disclosure as set out in the table below, unless otherwise notified in writing by the NSW Electoral Commission:

Disclosure form type	Person responsible
<b>Political Party</b>	the party agent
<b>Councillor or mayor</b>	the councillor or mayor
<b>Local government election candidate</b>	the candidate (includes a candidate who is a member of a group)
<b>Local government election group of candidates</b>	the lead candidate of the local government group
<b>Third-party campaigner or associated entity</b>	the official agent of the third-party campaigner or associated entity
<b>Member of Parliament (MP)</b>	the party agent, if the MP is a member of a party that is registered for State elections or the MP, in all other cases
<b>State election candidate</b>	the party agent, if the candidate is a member of a party that is registered for State elections or the candidate, in all other cases
<b>State election group of candidates</b>	the party agent of the group's lead candidate, if group members are members of one or more parties registered for State elections or the lead candidate, in all other cases

## How to submit a political donation disclosure form

Disclosure forms can be submitted online using [Funding and Disclosure Online](#):

1. [Log in](#) to Funding and Disclosure Online using your username and password, or [Request access](#) (if you don't already have access)
2. Your dashboard shows the disclosure(s) you need to submit for the half-yearly period
3. Follow these [instructions](#) to create and submit the disclosure, or these [instructions](#) to submit a 'Nil' disclosure.

When submitting a disclosure using Funding and Disclosure Online, supporting documents (e.g. copies of receipts issued to donors) can be uploaded before the disclosure is submitted electronically.

For those unable to use Funding and Disclosure Online, disclosure forms are available for download on the NSW Electoral Commission's [website](#). A disclosure form or "nil" disclosure form (if no donations were made or received) must be validly lodged with the NSW Electoral Commission by **Friday, 25 February 2022**.

A disclosure form is validly lodged if it is lodged by the due date and:

- the correct form has been used (there are separate forms for political parties and each type of electoral participant),
- it contains all pages (even if some or all pages contain no disclosures), and
- it is completed, signed and dated by the person who is responsible for making the disclosure. Note that digital signatures are no longer accepted on disclosure forms downloaded from the website. If you would like to sign with a digital signature, please use Funding and Disclosure Online to submit your disclosure.
- The disclosure form must be lodged with copies of the receipts issued to donors who made a reportable political donation.

If you are submitting a disclosure form downloaded from the website, the form and supporting documents can be lodged in paper or electronic form by email or fax but not through your own file hosting service (e.g. Dropbox). If submitting files that are too large to send by email (over 20MB), contact us at [fdc@elections.nsw.gov.au](mailto:fdc@elections.nsw.gov.au) to request a unique link for large file upload. These requests need to be made before 18 February 2022 and will only be attended to in business hours.

## Were you a member of a group of candidates in the half-yearly period?

### Disclosure forms to submit if you were a member of a group

- The person responsible for the group, usually the lead candidate, must submit **two** disclosures: the group disclosure form **and** their own individual candidate disclosure form.
- Each group member **must** submit their own individual candidate disclosure form.

**Candidate disclosure forms:** must include any political donations made to or for the benefit of the candidate and any political donations made by the candidate including political donations made by a candidate to the group of which they are a member, membership fees, levies, or other payments made to the political party of which the candidate is a member.

**Group disclosure forms:** must include any political donations made to or for the benefit of the group and any political donations made by the group. Political donations received by the group include donations made by the group's members to the group.

If a group member donates to their group, the candidate who donated to their group must disclose making the donation to the group. The lead candidate of the group must disclose, in the group's disclosure form, receiving the donation from the candidate.

## Were you a councillor or mayor in the half-yearly period?

Any person who was a councillor or mayor between 1 July 2021 and 31 December 2021 must submit an elected member disclosure form. This includes:

- those who were declared “elected” at the 2021 local government elections,
- elected members who contested the 2021 local government election but were not re-elected, and
- elected members who did not recontest the 2021 local government elections.

### Disclosure forms to submit if you were a councillor or mayor

- If you were elected at the 2021 local government elections, you **must** submit:
  - an elected member disclosure form,
  - a candidate disclosure form, and
  - a group disclosure form (if you were the lead candidate of a group)
- If you were an elected member prior to the 2021 local government elections and you were a candidate but were not re-elected, you **must** submit:
  - an elected member disclosure form,
  - a candidate disclosure form, and
  - a group disclosure form (if you were the lead candidate of a group)
- If you were an elected member prior to the 2021 local government elections and you were not a candidate, you **must** submit:
  - an elected member disclosure form

An elected member disclosure form is to include political donations made to or for the benefit of the person as an elected member and political donations made by the elected member during the half yearly period. Political donations made by an elected member include membership fees, levies and other payments made by the elected member to the political party of which they are a member.

Political donations disclosed by a person in their elected member disclosure form do not also need to be disclosed in the person’s candidate disclosure form, and vice versa.

## Were you a candidate for a councillor election and a mayoral election?

If you were a candidate for both a councillor election and a mayoral election in the same local government area the person responsible for the candidate can submit a single candidate disclosure form.

## Can a disclosure form be amended?

Yes, a disclosure form previously submitted to the NSW Electoral Commission can be amended by the person responsible for the original disclosure or their successor. “Amended disclosure” forms can be submitted using [Funding and Disclosure Online](#), or are available on request.

## What happens after a disclosure is made?

Disclosure forms are kept by the NSW Electoral Commission for at least six years and are published on the NSW Electoral Commission’s [website](#).

Disclosure forms may be subject to a compliance audit by the NSW Electoral Commission. You are required to retain complete and accurate records in relation to a disclosure for at least three years.

### **What happens if a disclosure form is not lodged, is lodged late or is incorrect or incomplete?**

Breaching the legislative requirements for disclosures may constitute a criminal offence. The NSW Electoral Commission may issue warnings, penalties or prosecute offences including:

- failure to validly lodge a disclosure form by the due date
- lodging an incomplete disclosure without a reasonable excuse
- providing or withholding information knowing it will result in a false or misleading declaration by the person responsible for the disclosure
- making a false statement in a declaration on a disclosure form.

A disclosure form is taken to be invalidly lodged if:

- the incorrect form is used or pages are missing from the form
- the form has not been signed by the person who is responsible for signing the form
- the declaration section of the form has not been properly completed including the date the declaration was signed.

### **More information**

The *Electoral Funding Act 2018* is available in full at [legislation.nsw.gov.au](https://legislation.nsw.gov.au).

For further information, contact us on 1300 022 011 or at [fdc@elections.nsw.gov.au](mailto:fdc@elections.nsw.gov.au).

<b>POLICY:</b>	COMMUNITY ENGAGEMENT STRATEGY
<b>DATE ADOPTED:</b>	General Manager's Report #13 Council 27 September 2017 Minute Book No.12588  Director Corporate Services & Finance's Report #1 Policy 5 December 2012 Council 6 February 2013 Minute Book No.11477
<b>ORIGINAL ADOPTION:</b>	General Manager's Report #1 Policy 6 April 2011 Council 20 April 2011 Minute Book No. 11095
<b>FILE REFERENCE:</b>	02.00003
<b>OBJECTIVE:</b>	To provide a framework for Council's commitment to delivering a high level of community engagement to its community

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## **1. GUIDING PRICIPLES**

### **1.1 To provide genuine support for meaningful and effective consultation**

By recognising consultation as a valued part of strategic decision making.

### **1.2 To consult before making decisions**

By referencing the Community Engagement Strategy (**refer to attachment 1**), Council will ensure the right level of consultation is applied in any given situation and matches the nature, complexity and impact of the issue, plan, project, or strategy The Strategy does not give participants the power to make final decisions but to be informed and contribute to the process.

### **1.3 To provide feedback**

By establishing agreed standards of consultation at the start of every project, Council will ensure all participants agree on a feedback process and are aware of making a commitment to ongoing communication.

### **1.4 To be representative**

By utilising the broad range of demographic and social profiling data available to Council, we will ensure we consult with the right people at the right time engaging true representative samples of the community.

### **1.5 Don't over consult**

By accessing existing relevant research, databases and information as part of the engagement planning process, Council will ensure a free flow of information between



Council departments that reduces the risk of wasting valuable resources, including valuable community time.

**2. IMPLEMENTATION**

The following Community Engagement Procedures (2.1, 2.2, 2.3 and 2.4) have been developed to enable Council to implement its Community Engagement Policy:

**2.1 Community Engagement Commitment**

By adopting the Community Engagement Strategy Policy, Council makes a commitment to conducting quality consultation and a willingness to actively engage the community in decision making and information processes. A Community Engagement Strategy also ensures a consistent approach is taken by Council in relation to projects requiring community consultation and ensures the community is well informed about Council issues, strategies, projects or plans and has the opportunity for involvement in decision making and policy development. Community engagement will apply to all facets of Council's operations where appropriate, and the standard of consultation will be designed in line with the nature, complexity and impact of the issue identified. Accordingly, engagement methods, techniques and tools used will vary according to the issue or project.

**2.2 Planning for effective consultation**

In planning for a community engagement activity in relation to a specific issue, project, strategy or plan Council will reference its Community Engagement Strategy, determine what the objectives are for the project, identify the stakeholders impacted by the project, the level and forms of engagement to be utilised, the tools to be used, the measurable outcomes and evaluation processes.

**2.3 Community Engagement Matrix**

Council will determine what level of engagement is to be utilised for each specific community engagement activity based on the International Association of Public Participation (IAP2) Spectrum of Public Participation; with the level of engagement in line with the nature, complexity and impact of the issue, plan, project, or strategy. The levels of engagement as described by the IAP2 Spectrum are included below. :

<b>Inform</b>	To provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.
<b>Consult</b>	To obtain public feedback on alternatives and/or decisions
<b>Involve</b>	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered
<b>Collaborate</b>	To partner with the public in each aspect of decision making including the development of alternatives and identification of the preferred solution
<b>Empower</b>	To place final decision making in the hands of the public



### 2.4 Feedback and Evaluation

A commitment to meaningful community engagement requires ongoing and regular communications with identified stakeholders.

Council commits to including as part of the engagement process, feedback and evaluation of its community engagement. Council may use a variety of methods to deliver this feedback depending on the Community Engagement objectives and goals established in the planning process.

# Community Engagement Strategy

Bathurst Regional Council



### Introduction

This plan outlines Bathurst Regional Council's commitment to working with its community in the ongoing future development of the Bathurst Region. The Community Engagement Strategy outlines how and to what service level, Council will build a meaningful long term relationship with the community it serves in terms of an involvement in decision making.

The Bathurst Region is identified as the community either living, visiting or working in the Bathurst Regional Council Local Government Area.

### Why Develop a Community Engagement Strategy?

Aside from it being a requirement under the NSW Government's Integrated Planning Process, a Community Engagement Strategy provides an opportunity for Council to review its consultation processes and develop tools and targets that will support a transparent governing environment. A community engagement strategy provides Council with a framework to develop meaningful dialogue and relationships with its community.

### Council's Vision and Mission

The development of Council's ***Community Engagement Guiding Principles***, the first step in the Community Engagement Process, is made with reference to Council's Vision and Mission Statements.

**BRC Vision**            A vibrant regional centre that enjoys a rural lifestyle, the Bathurst Region achieves health and well-being through strengthening economic opportunities, planning for sustainable growth, protecting and enhancing our assets, and encouraging a supportive and inclusive community. A Region full of community spirit and shared prosperity.

**BRC Mission**        The equitable development and maintenance of services provided for the general health and wellbeing of the citizens of the Bathurst Region and the adjustment of these services to meet the changing needs.

A Community Engagement Strategy based on these principles works to further enhance the Council's strategic planning process. It provides a framework for decision making and standards to service delivery that are intended to inspire confidence and trust in the community that we will listen to and hear what the community has to say on important issues.

### Our Community Engagement Commitment

By adopting the Community Engagement Strategy, Council makes a commitment to conducting quality consultation and a willingness to actively engage the community in decision making and information processes.

A Community Engagement Strategy also ensures a consistent approach is taken by Council in relation to projects requiring community consultation and ensures the community is well informed about Council issues, strategies, projects or plans and has the opportunity for involvement in decision making and policy development.

### Community Engagement Guiding Principles

**1. To provide genuine support for meaningful and effective consultation**

By recognising consultation as a valued part of strategic decision making.

**2. To consult before making decisions**

By referencing the Community Engagement Strategy Council will ensure the right level of consultation is applied in any given situation. The Strategy does not give participants the power to make final decisions but to influence the process.

**3. To provide feedback**

By establishing agreed standards of consultation at the start of every project Council will ensure all participants agree on a feedback process and are aware of any commitment made to ongoing communication.

**4. Be representative**

By utilising the broad range of demographic and social profiling data available to Council we will ensure we consult with the right people at the right time engaging true representative samples of the community.

**5. Don't over consult**

By accessing existing relevant research, databases and information as part of the engagement planning process, Council will ensure a free flow of information between Council departments that reduces the risk of wasting valuable resources including valuable community time.

### Community Engagement Procedure

After considering the Guiding Principles in the Community Engagement Policy the Community Engagement Procedure has been designed to provide a framework to guide Council's community engagement activities.

Procedures outlined in this strategy include;

1. Community engagement planning framework
2. Community Engagement Matrix
3. Feedback and Evaluation review

One of the greatest challenges of Local Government, is striking that balance between effective community consultation and limited resources. The Community Engagement Strategy provides a set of tools that will help coordinate Council's

consultation processes and limit the very real risk of over-communication provided by a more ad hoc approach.

This strategy is intended to add to the ongoing and regular consultation conducted by Councillors in their general roles as representatives of the community and by no means replaces that role.

### **Community Engagement planning**

By adopting this Community Engagement Strategy, Council is making a commitment to credible and competent planning of its community engagement activities.

In undertaking a consultation project it is imperative that:

- the aim and objectives of the project are clearly articulated
- stakeholders are identified
- determine the level of engagement (as guided by the IAP2) spectrum based on the complexity of the issue and the identified objectives
- determine the appropriate tools to use as part of the engagement process
- set clear expectations around what influence/input the community has on the issues, project or plan Council is seeking community input on
- Build in an appropriate level of evaluation as part of the of the engagement process

### **Community Engagement Matrix**

Council will use tools and approaches as identified in the International Association of Public Participation (IAP2) Spectrum, as defined below, to determine the appropriate level of engagement to be undertaken on identified projects, issues, strategies or plans. Council has also invested in the Your Say Bathurst website as an online community engagement portal. The website is one of the engagement tools now available to Council and can be used alongside a suite of other engagement tools to support community engagement activities, based on the level of engagement being undertaken.

# IAP2 Spectrum of Public Participation



	<b>Inform</b>	<b>Consult</b>	<b>Involve</b>	<b>Collaborate</b>	<b>Empower</b>
<b>Public participation goal</b>	To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision-making in the hands of the public.
<b>Promise to the public</b>	We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for advice and innovation in formulating solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.
<b>Example techniques</b>	<ul style="list-style-type: none"> <li>▪ Fact sheets</li> <li>▪ Web sites</li> <li>▪ Open houses</li> </ul>	<ul style="list-style-type: none"> <li>▪ Public comment</li> <li>▪ Focus groups</li> <li>▪ Surveys</li> <li>▪ Public meetings</li> </ul>	<ul style="list-style-type: none"> <li>▪ Workshops</li> <li>▪ Deliberative polling</li> </ul>	<ul style="list-style-type: none"> <li>▪ Citizen advisory committees</li> <li>▪ Consensus-building</li> <li>▪ Participatory decision-making</li> </ul>	<ul style="list-style-type: none"> <li>▪ Citizen juries</li> <li>▪ Ballots</li> <li>▪ Delegated decision</li> </ul>

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### Feedback and Evaluation Review

A commitment to meaningful community engagement requires ongoing and regular communication with your target community/sample participants. Council commits to including as part of that process, feedback and evaluation of its community engagement at all levels. Council may use a variety of methods to deliver this outcome depending on available resources and the Community Engagement Objectives established in the planning process.

This could include:

- Participant survey conducted at conclusion of engagement process
- Annual Council Community Survey (random sample)
- Specific Online survey through Council website
- Ratepayers newsletter direct mail to residents
- Written submissions
- Online participants forum

### Conclusion

Council has made a commitment to developing a relevant and comprehensive Community Engagement Strategy. In adopting the Community Engagement Policy and associated Strategy Council makes a commitment to recognizing community engagement as a strategic tool in its decision making processes.

The aim of the Strategy being to provide guidance to Council in terms of ongoing community engagement and make a commitment to the community that outlines its intended service levels and a process for meaningful consultation.

The Community Engagement Strategy provides the framework to enable Council to make a genuine improvement in coordinating its community engagement practices. It is intended to compliment the activities of Councillors who are the elected representatives of the community, and have as part of their mandate, a role to play in consulting with the community through various formal and informal channels.

Community engagement is relevant across all Council's departments and operations and Council reports via its Council Business Paper each month on the level of engagement activities being undertaken and reported to the community via the Council meeting.

<b>POLICY:</b>	Social Media Policy – Councillors
<b>DATE ADOPTED:</b>	Director Corporate Services & Finance Report # 1 Extraordinary Meeting of Council 24 February 2021
<b>ORIGINAL ADOPTION:</b>	Director Corporate Services' Report #1 Extraordinary Meeting of Council 24 February 2021 Resolution number ORD2021-56
<b>FILE REFERENCE:</b>	11.00050
<b>RESOLUTION NUMBER:</b>	ORD2021-56
<b>OBJECTIVE:</b>	To provide guidance to Councillors on the use of Social Media platforms.

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## INTRODUCTION

Social media can:

- Increase residents' access to Council
- Increase Council's access to residents and improve the accessibility of Council communication
- Allow Council to be more active in its relationship with residents, partners and other Stakeholders
- Increase the level of trust in Council
- Reach targeted audiences on specific issues, events and programs
- Provide effective, fast communication channels during crises
- Provide insights into how Council is perceived

To provide guidelines to Councillors on business and personal use of Social Media in order to minimise the potential for negative impacts to Council's reputation.

### 1. SCOPE

This policy applies to the official, personal and professional use of social media by all Councillors. It applies to all activities undertaken in their capacity as councillors, administrators, council committee members and delegates of Council.

As a Councillor, it is your responsibility to ensure that your actions or communications on your personal or Council-owned social media account do not bring Council into disrepute.

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## 2. PRINCIPLES

In support of the Code of Conduct principles, social media usage on behalf of Council must:

- Strengthen the public's trust and confidence in the integrity of Council. (Leadership)
- Be made in the public interest and not in order to gain financial or other benefits for yourself, your family, friends or business interests. (Selflessness)
- Be credible, accurate, fair and transparent. (Impartiality)
- Apply appropriate record keeping to ensure accountability for decisions and actions made. (Accountability)
- Be respectful, cordial, thorough and professional at all times. Including when referencing and dealing with Council staff. (Respect)
- Demonstrate honesty and integrity, ensuring any actual or potential conflict of interests relating to your social media interactions are declared and taking steps to resolve any conflicts in such a way that protects the public interest and Council's. (Honesty)

## 3. COMPLIANCE

Depending on the circumstances, non-compliance with this policy (and any other related policy) may constitute a breach of the Code of Conduct, misconduct, harassment, discrimination, or some other contravention of the Council's Policies and applicable laws. Failure to comply with this policy may result in proceedings under the Code of Conduct, disciplinary action and, in serious cases, civil or criminal proceedings in a court of law.

## 4. DEFINITIONS

<b>Council committee</b>	Committee established by a Council comprising of Councillors, staff or other persons that the Council has delegated functions to and includes the Council's Audit, and Risk Management Committee.
<b>Councillor</b>	Any person elected or appointed to Civic Centre Office, including the Mayor and includes members or chairperson of County Councils and voting representatives of the boards of joint organisations and chairperson of joint organisations.
<b>Official Use</b>	Official use refers to when a Councillor creates/comments on an official Bathurst Regional Council social media site as a representative of the Council. Or comments on a non-Council social media site as a representative of the Council.

**Person Use** Personal use is when a Councillor comments in their personal capacity on either their own or another person's/company's social media platform. Councillors should be aware that their personal commentary via social media may have implications as an official of Bathurst Regional Council.

**Social Media** Social media are online services and tools used for collaborating, publishing, sharing and discussing information. Social media services and tools can involve a combination of technology, telecommunications and social interaction. They can use a variety of different formats, including text, pictures, video and audio.

Social Media may include (but is not limited to): Facebook, Twitter, YouTube, What's App Messenger, Google+, LinkedIn, Yammer, Instagram, Snapchat, Flickr and Blogs)

## 5. ROLES AND RESPONSIBILITIES

### COUNCILLORS AND MAYOR

The Mayor and Councillors are personally responsible for the content they publish on social media. Social media sites are in the public domain and it is important that Councillors and the Mayor ensure they are confident of the nature of the information they publish and are aware that any social media activity, either official or personal, is permanent, traceable and easily distributed. Government tribunals have found that it is not possible to distinguish between a Councillor's official use and their private use.

Councillors and the Mayor are advised to make use of stringent privacy settings to avoid their personal social media accounts being accessed by the press or public.

### The Mayor and Councillors

The Mayor is Council's official spokesperson on all policy matters and key decisions made by Council. The Mayor may nominate another Councillor to speak on a particular matter.

In their capacity as a Council official, the Mayor and Councillors:

- May express their personal view on social media on matters relating to Council policy and other matters of public interest, however this should be clearly identified as the personal view of a Councillor and not an official Council position or policy and must not bring the Council, Council decisions or the civic office into disrepute
- May issue official media releases on his/her personal social media sites.
- Must not publish content or interact in a way that compromises their capacity to perform their official duties in an unbiased manner.
- Should understand that 'shares', 'likes' or 'retweets' may be viewed as an endorsement of the original post
- Must not make comments or speak on behalf of Council, commit to any actions or communicate materials that are obscene, pornographic, threatening, harassing, abusive or defamatory.

- Must not post confidential unauthorised information, or release misleading information or pre-empt Council announcements that may be deceptive and impact Council or damage Council's reputation.
- Maintain responsibility for the preparation, posting and management of their own content on their personal social media channels.
- Must not breach the privacy of Council, its officials and staff.

Councillors should also be mindful of their obligations under Council's Code of Conduct and that they are responsible for all content they publish on any form of social media. Any breaches may be referred to the General Manager and may be dealt with under Council's Code of Conduct.

### **6. OFFICIAL USE OF SOCIAL MEDIA AT BATHURST REGIONAL COUNCIL**

As an Authorised Council representative you must be aware that you are personally responsible for the content of your social media posts and blogs, even though you are an approved representative of the Council. You can be held personally liable for any content deemed to be defamatory, obscene, proprietary or libellous. For these reasons, you must always exercise caution.

#### **As an Authorised Council representative you must:**

- Be mindful you are representing the Council.
- Disclose and comment only on information already within the public domain (unless you are specifically given permission to reveal confidential information)
- Ensure that all content published is accurate and not misleading.
- Cite and link to resources when you can.
- Be responsive to questions and comments.
- Correct mistakes promptly.
- Ensure comments are respectful of the community with which you are interacting.
- Adhere to the Terms of Use of the relevant social media platform/website, as well as copyright, privacy, defamation, contempt of court, discrimination, harassment, other applicable laws, and all relevant Council policies

#### **As an Authorised Council representative you must not:**

- Post material that is obscene, defamatory, threatening, harassing, bullying, discriminatory, hateful, racist, sexist, or is otherwise unlawful.
- Use or disclose any confidential or secure information (unless required to do so).
- Post photos, videos, or other media without the consent of all participants (this includes tagging photos and names) the exception is at "public events" where image release approval is not required.
- Make any comment or post any material that might otherwise cause damage to the Council's reputation or bring it into disrepute.
- Link the site/page with your personal social media sites/pages.

### **7. RECORD KEEPING**

Social Media content is subject to various legislation which governs retention, storage and publication. You must keep official Council social media records. Online comments can be held to the same legal standards as traditional media communications.

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