

## ITEM 4 POLICY REVIEW - CODES OF CONDUCT

A review of the Code of Conduct has recently been undertaken as part of Council's regular review of policies as part of the Council Policy Framework. The review has identified a number of enhancements to the Code of Conduct which are discussed below.

### RECOMMENDATION

That Council place updated drafts of the following codes of conduct on public exhibition for a period of 21 days, inviting submissions from the public, after which time the Codes shall be reported back to Council for adoption with a summary of submissions received:

- a Draft Code of Conduct for Staff
- b Draft Code of Conduct for Councillors
- c Draft Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers

### REPORT AUTHORISATIONS

Report of: Todd Hopwood, Manager Customer and Business Integrity  
 Authorised by: Renee Campbell, Director Corporate Services - Connected + Engaged City

### ATTACHMENTS

- 1 Draft Code of Conduct - Staff
- 2 Draft Code Of Conduct - Councillors

### BACKGROUND

Council currently has a set of adopted codes of conduct that relate to Staff, Councillors as well as Committee Members, Delegates and Advisors. A recent review of the codes of conduct has identified several enhancements to the Code of Conduct to improve its robustness and bringing it into line with contemporary behavioural expectations.

### PROPOSAL

The Draft Code of Conduct has been updated to incorporate changes that reflect more clarified expectations of staff in several key areas, such as bullying and harassment, sexual harassment, secondary employment and gifts and benefits.

A summary of the most significant changes to the policy and their rationale is provided below:

Policy Section	Proposed Change	Rationale
<b>Part 3 General Conduct obligations</b>	New clause requiring all Council officials that become aware of harassment or discrimination to report the alleged conduct.	There are already requirements to report WHS and Child Protection related matters. Extending this requirement to all areas of conduct will ensure that matters are dealt with as soon as possible.
<b>Part 3 General Conduct obligations</b>	A new section, inclusive of four clauses, relating to sexual harassment as being prohibited. Clauses include definitions of sexual harassment as well as a requirement to report any sexual harassment an officer becomes aware of.	<ul style="list-style-type: none"> <li>The current model Code of Conduct released by the OLG does not specifically mention sexual harassment and relies upon the general non-harassment clauses.</li> <li>Council has a zero-tolerance approach to sexual harassment and to match community and staff expectations in this area it considered appropriate to have specific clauses outlining and prohibiting sexual harassment.</li> <li>Ensure compliance with the positive duty requirements under the <i>Sex Discrimination Act 1984</i> (Cth)</li> </ul>

<b>Part 3 General Conduct obligations</b>	New clause requiring all Council officials that become aware of bullying to report the alleged conduct.	There are already requirements to report WHS and Child Protection related matters. Extending this requirement to all areas of conduct will ensure that matters are dealt with as soon as possible.
<b>Part 5 Non-Pecuniary Conflicts of Interest</b>	New clause in relation to secondary employment that prohibits a member of staff in an office bearer role or a decision-making role in a voluntary capacity in another organisation unless they have notified the General Manager in writing.	Secondary Employment provisions in the Code of Conduct at present only relate to paid employment. Board/Committee positions in community or industry organisations as well as charities may also generate conflicts of interest that should be declared and managed similar to paid secondary employment.
<b>Part 6 Personal Benefit</b>	Clause 6.7 (g) of the current codes state that council officials cannot personally benefit from reward points programs when purchasing on behalf of the Council. It is proposed to add a clarifying statement to state that this includes frequent flyer programs when Council has met the cost of travel.	The expanded wording does not change the intent of the clause, but attempts to make it more clear that frequent flyer points cannot be accumulated on Council business.

Updated draft versions of the *Code of Conduct for Staff* and the *Code of Conduct for Councillors* are attached to this report. Those new clauses that are relevant to the *Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers* will be incorporated and placed on public exhibition.

## PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2032 Goal 4. It specifically delivers on the following:

Community Strategic Plan 2032		Delivery Program 2022-2026
Strategy		Service
4.7	Demonstrate responsible decision-making based on our values, collaboration, and transparent and accountable leadership	Governance and Administration

## CONCLUSION

The draft codes of conduct have been updated to include a number of changes that provide greater clarity and explanation to Council Officials in relation to in several key areas, such as bullying and harassment, sexual harassment, secondary employment and gifts and benefits.



WOLLONGONG CITY COUNCIL

# CODE OF CONDUCT

## STAFF

DRAFT MARCH 2024



### STATEMENT FROM THE GENERAL MANAGER

I am pleased to introduce to you the Wollongong City Council Code of Conduct. The Executive and Senior Leadership Team of Council are strongly committed to driving a high performing organisation underpinned by robust governance practices and ethics principles. The attitudes, values, beliefs, and behaviours of our leaders and staff must support good governance. Our staff values are included in this Code and demonstrate our collective commitment to achieving the very best outcomes for our community. We are continually focused on proactively driving the highest ethical standards in our conduct and interactions and have zero-tolerance for fraud and corruption in the delivery of all our policies, processes, and projects throughout all levels of our organisation.



Protecting the reputation of the Council is vital to ensure our credibility and maintain public trust in what we do. The Code of Conduct helps all of us comply with our professional obligations and maintain high standards of ethical conduct. Everyone working with Council should expect to be treated, and must treat others, with respect, dignity and fairness. The Code does not cover every issue that may arise but provides guidance around standards of behaviour. I expect all Council employees and delegates to make themselves aware of the Code and to implement and comply with its provisions and the core values on which it is based. You are required to act both within the letter and spirit of the Code.

If you need further information on Council's Code of Conduct or advice on any ethical conduct issues, speak to your manager, Governance, People and Culture or any member of the Leadership team.

Greg Doyle  
General Manager

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# Part 1: Introduction



This Code of Conduct applies to members of Council staff, including the General Manager. It is based on the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct") which is made under section 440 of the *Local Government Act 1993* ("LGA") and the *Local Government (General) Regulation 2005* ("the Regulation").

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

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

Section 440 of the LGA requires every Council (including County Councils) and Joint Organisation to adopt a Code of Conduct that incorporates the provisions of the Model Code of Conduct. Council's or Joint Organisation's adopted Code of Conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "Council officials" for the purposes of the Model Code of Conduct (e.g. volunteers, contractors and members of wholly advisory committees).

Council's adopted Code of Conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct. However, Council may adopt a Code of Conduct with requirements that are more onerous than those prescribed in the Model Code of Conduct.

Councillors, Administrators, members of staff of Council, delegates of Council, (including members of Council Committees that are delegates of Council) and any other person a Council's adopted Code of Conduct applies to, must comply with the applicable provisions of the 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 member of staff to comply with Council's Code of Conduct may give rise to disciplinary action.

**Note:** References in this Code of Conduct to Councils are also to be taken as references to County Councils and Joint Organisations.

### Council Values

Wollongong City Council has defined organisational values to support our purpose of creating an Extraordinary Wollongong. These are :

**Respect** - inclusive and considerate

**Sustainable** - use our community's resources responsibly

**Courage** - challenge the norm to be better

**Integrity** - honest and reliable

**One Team** - together we deliver excellent service

Our values are not meant to be just words on a page. They are part of everything we do every day. Our values are evident in this document by graphics that represent each value appearing on the cover page and each chapter page in the Code of Conduct.

# Part 2: Definitions





In this Code the following terms have the following meanings:

<b>Committee</b>	see the definition of "Council Committee"
<b>Administrator</b>	an administrator of a Council appointed under the LGA other than an Administrator appointed under section 66
<b>Committee</b>	See the Definition of "Council Committee"
<b>complaint</b>	a Code of Conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures.
<b>conduct</b>	includes acts and omissions
<b>Council</b>	Wollongong City Council
<b>Council Committee</b>	a Committee established by Council comprising of Councillors, staff or other persons that Council has delegated functions to and Council's Audit, Risk and Improvement Committee
<b>Council Committee member</b>	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
<b>Council official</b>	includes Councillors, members of staff of Council, Administrators, Council Committee members, delegates of Council and, for the purposes of clause 4.16 of the Model Code of Conduct, Council advisers
<b>Councillor</b>	any person elected or appointed to civic office, including the Lord Mayor and includes members and chairpersons of County Councils and voting representatives of the boards of Joint Organisations and chairpersons of Joint Organisations
<b>delegate of Council</b>	a person (other than a Councillor or member of staff of Council) or body, and the individual members of that body, to whom a function of Council is delegated
<b>designated person</b>	a person referred to in clause 4.8
<b>election campaign</b>	includes Council, state and federal election campaigns
<b>Joint Organisation</b>	a Joint Organisation established under section 4000 of the LGA
<b>LGA</b>	the <i>Local Government Act 1993</i>
<b>mayor</b>	includes the chairperson of a County Council or a Joint Organisation
<b>members of staff of a Council</b>	includes members of staff of County Councils and Joint Organisations
<b>the Office</b>	Office of Local Government
<b>personal information</b>	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
<b>the Procedures</b>	the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
<b>the Regulation</b>	the <i>Local Government (General) Regulation 2005</i>
<b>wholly advisory Committee</b>	a Council Committee that the Council has not delegated any functions to.

The term "you" used in this Code of Conduct refers to members of Council staff.

# 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 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).
- [Model Code]

### 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.
- [Model Code]

### 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.
- [Model Code]

- 3.8. All Council officials, including Councillors, that become aware of harassment or discrimination of another Council official are required to immediately report details to their supervisor, manager, Manager People and Culture, Public Officer, Professional Conduct Coordinator or the General Manager.
- [Council Protocol]

### Sexual harassment

- 3.9. You must not sexually harass others, or support others who sexually harass others.
- 3.10. For the purposes of this Code, "sexual harassment" is any form of sexual behaviour towards a person that is unwanted or unwelcome and where a reasonable person would have anticipated the possibility that the person harassed would feel offended, humiliated or intimidated. Sexual harassment is unlawful under the Sex Discrimination Act and some types of sexual harassment may also be criminal offences.
- 3.11. Sexual harassment may involve, but is not limited to, any of the following types of behaviour:
- a) staring, leering or unwelcome touching
  - b) suggestive comments or jokes
  - c) unwanted invitations to go out on dates or requests for sex
  - d) intrusive questions about a person's private life or body
  - e) unnecessary familiarity, such as deliberately brushing up against a person
  - f) emailing pornography or rude jokes
  - g) displaying images of a sexual nature around the workplace
  - h) communicating content of a sexual nature through social media or text messages

- i) behaviour which would also be an offence under the criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications
- j) dating, relationships or sexual conduct between employees, even if it is consensual, must not create an unpleasant and sexualised workplace for others

3.12. All Council officials, including Councillors, that become aware of the sexual harassment of another Council official are required to immediately report details to their manager, Manager People and Culture, Public Officer, Professional Conduct Coordinator or the General Manager.

(Council protocol)

#### Bullying

3.13. You must not engage in bullying behaviour towards others, or support others who engage in bullying behaviour towards others.

3.14. 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.

3.15. 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.

[Model Code]

3.16 All Council officials, including Councillors, that become aware of bullying of another Council official are required to immediately report details to their supervisor, manager, Manager People and Culture, Public Officer, Professional Conduct Coordinator or the General Manager.

[Council Protocol]

#### Reasonable Management Action

3.17. Reasonable management action carried out in a reasonable manner does not constitute bullying, harassment or discrimination behaviours 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.

[Model  
Code]

#### Work health and safety

3.18. Council staff owe statutory duties under the *Work Health and Safety Act 2011* (WH&S Act). You must comply with your duties under the WH&S Act and your responsibilities under any policies or procedures adopted by Council to ensure workplace health and safety. Specifically, you must:

- a take reasonable care for your own health and safety
- b take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
- c comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WH&S Act and any policies or procedures adopted by Council to ensure workplace health and safety
- d cooperate with any reasonable policy or procedure of the Council relating to workplace health or safety that has been notified to Council staff

- e report accidents, incidents, near misses, to the General Manager or such other staff member nominated by the General Manager, and take part in any incident investigations
- f so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WH&S Act in relation to the same matter.

[Model Code]

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

- 3.19. 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.
- 3.20. 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.

[Model Code]

- 3.21. In determining development applications or in exercising regulatory or enforcement functions, it is essential that you are highly conscious of the potential for even the slightest impropriety that may lead to any suspicion of misconduct.
- 3.22. You must refrain from offering support to affected parties prior to the normal assessment or review processes of Council being undertaken.

[Council protocol]

#### Public Comment

- 3.23. Only those Council staff who are specifically delegated to do so by the General Manager may make public comment to the media about Council matters. Staff must comply with Council's Media policies and protocols, and general conduct provision of this Code.

[Council protocol]

#### Obligations in relation to meetings

- 3.24. 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.
- 3.25. 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).
- 3.26. 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.

[Model Code]

#### Fraud and Corruption

- 3.27. You must not engage or participate in any act that may constitute fraud and corruption.
- 3.28. You must report any concerns that you reasonably believe may constitute fraud and/or corruption to Council's Professional Conduct Coordinator or the General Manager. Further, you must not ignore or condone any act that you reasonably suspect to constitute fraud or corruption. Failure to report or disclose any potential fraud or corruption may result in disciplinary action against you.

[Council protocol]

#### Right to Work and Criminal Convictions

- 3.29. You must disclose to Council any criminal conviction you incur during the course of your employment with Council. Further, staff are obligated to disclose any change in their working rights (e.g., change of visa status or loss of licence) during the course of their employment.

[Council protocol]



### Child protection

3.30. All Council officials, including Councillors, are required to support and promote the safety, wellbeing and empowerment of children under the age of 18. Specifically, you must:

- a take all reasonable steps to protect children from harm
- b listen and respond to the views and concerns of children, particularly if they have stated that they or another child have been harmed in any way and/or are worried about their safety or the safety of another child
- c promote the cultural safety, participation and empowerment of Aboriginal children, and children with a disability, and with culturally or linguistically diverse backgrounds
- d model appropriate adult behaviour in an open and transparent way
- e respect the privacy of parents and children by not disclosing personal information
- f where child abuse is suspected, ensure that children are safe and protected from harm as quickly as possible
- g encourage children to 'have a say' and participate in all relevant organisational activities where possible, especially on issues that are important to them

3.31. You must not:

- a develop any 'special' relationships with children that may be seen as favouritism or inappropriate, including through the provision of gifts, showing inappropriate attention or exhibiting improper behaviour
- b exhibit behaviours or engage in activities with children that may be construed as unnecessarily physical contact
- c put children at risk of harm
- d do things of a personal nature that a child can do for themselves such as toileting or changing clothes
- e engage in open discussions of a mature or adult nature, or use inappropriate language in the presence of children
- f express personal views on cultures, race or sexuality in the presence of children
- g discriminate against any child, including on the basis of age, gender, sexuality, race, cultural background or disability

- h express personal views on cultures, race or sexuality in the presence of children
- i discriminate against any child, including on the basis of age, gender, sexuality, race, cultural background or disability
- j ignore or disregard any concerns, suspicions or disclosures of child being harmed in any way

3.32. All Council officials, including Councillors, are required to immediately report any allegations of child abuse to Council's identified Child Protection Officer. In addition, you must:

- a Report information to the Police if you know, believe or have been informed by a child, family member or community member that a child has been abused, even if it involves another employee Council official.
- b report any breach of the Child Protection standards in this Code of Conduct Council's identified Child Protection Officer.
- c understand and comply with all reporting and/or disclosure obligations, including mandatory reporting and reportable conduct

[Council protocol]

# 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.

[Model Code]

### 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 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
  - g 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
  - h 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
- i 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
- j an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Council Committee member.

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.

[Model Code]

#### 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 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 and the person's private interest.
- d a person (other than a member of the senior staff of Council) who is a member of a Committee of the Council identified by 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 clause 4.18, 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.

[Model Code]

#### 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.

[Model Code]



#### What disclosures must be made by a Council Committee member?

- 4.16. A Council Committee member must disclose pecuniary interests in accordance with clause 4.25 and comply with clause 4.26.
- 4.17. For the purposes of clause 4.16, a "Council Committee member" includes a member of staff of Council who is a member of the Committee.

[Model Code]

#### Disclosure of interests in written returns

- 4.18. A 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 designated person's interests as specified in Schedule 1 to this Code within 3 months after:
- a becoming a designated person, and
  - b 30 June of each year, and
  - c the 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).
- 4.19. A person need not make and lodge a return under clause 4.18, 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 designated person in the preceding 3 months.
- 4.20. 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.
- 4.21. The General Manager must keep a register of returns required to be made and lodged with the General Manager.
- 4.22. Returns required to be lodged with the General Manager under clause 4.18(a) and (b), or a register of such returns, must be tabled at the first meeting of the Council after the last day the return is required to be lodged.
- 4.23. Returns required to be lodged with the General Manager under clause 4.18(c), or a register of such returns, must be tabled at the next Council meeting after the return is lodged.
- 4.24. Information contained in returns made and lodged under clause 4.18 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 2018* and any guidelines issued by the Information Commissioner.

[Model Code]

#### Disclosure of pecuniary interests at meetings

- 4.25. 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 Committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.26. The 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 Committee, or
  - b at any time during which the Committee is voting on any question in relation to the matter.
- 4.27. A disclosure made at a meeting of a Council Committee must be recorded in the minutes of the meeting.
- 4.28. A general notice may be given to the General Manager in writing by a Council Committee member to the effect that the Council Committee member, or the 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.
  - c 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 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 Committee after the date of the notice.
- 4.29. 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 Council Committee member has an interest in the matter of a kind referred to in clause 4.6.



- 4.30. A person does not breach clauses 4.25 or 4.26 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.
- 4.31. The Minister for Local Government may, conditionally or unconditionally, allow 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 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 that it is in the interests of the electors for the area to do so.
- 4.32. A Council Committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the Committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.31, must still disclose the interest they have in the matter in accordance with clause 4.25.

[Model Code]

Note: For the purpose of clauses 4.25 to 4.32, a "Council Committee member" includes a member of staff of Council who is a member of a Council Committee.

# Part 5: Non-Pecuniary Conflicts of Interests



### 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.

[Model Code]

### 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 Lord Mayor.
- 5.7 If a disclosure is made at 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 4.25 and 4.26.
- 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 Lord Mayor.

[Model Code]

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

- 5.13 The Minister for Local Government may, conditionally or unconditionally, allow 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 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 that it is in the interests of the electors for the area to do so.

- 5.14 Where the Minister exempts a Committee member from complying with a requirement under this Part under clause 5.13, the 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 secondary employment

- 5.15 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.
- 5.16 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.
- 5.17 A member of staff must not take on an appointment to a Board or Committee with an organisation, of a type identified in the Secondary Employment and Board/Committee Appointments Policy, unless they have notified the General Manager in writing of the appointment and the General Manager has given their written approval for the staff member to engage in that activity.
- 5.18 The General Manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business, including appointment to Boards and Committees as outlined in 5.17, 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.
- 5.19 A member of staff must not engage, for remuneration, in private employment, contract work or other business or appointment to Boards and Committees as outlined in 5.17, outside the service of the Council if prohibited from doing so.
- 5.20 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.

[Model Code]

#### Personal dealings with Council

- 5.21 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.

- 5.22 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.

[Model Code]

#### Former Council officials

- 5.23 You must not use your position to obtain opportunities for future employment.
- 5.24 At the end of your involvement as a staff member you must return all Council property, documents and other items and not make public or otherwise use confidential information obtained during the time of your involvement with Council.
- 5.25 You must be careful in your dealings with former Council officials and ensure that you do not give or appear to give favourable treatment or access to otherwise confidential information to former Council officials.

[Council protocol]

#### Sponsorship

- 5.26 Council actively seeks financial or in-kind sponsorship from a variety of sources to support specific events, promotions, services or other activities of Council. It is essential that sponsorships do not limit Council's ability to carry out its functions fully and impartially. All sponsorship arrangements must comply with Council's 'Sponsorship of Council Activities from External Sources' policy.

[Council protocol]

# 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 benefit or facility provided by the Council to an employee
  - 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.

[Model Code]

*Note: In relation to 6.2(d) in circumstances where Council is the owner of, and is responsible for the management/operation of a facility, tickets to attend events at that facility that are provided to employees are deemed to be provided by Council in its capacity as owner of the facility. This includes, but is not limited to, the Illawarra Performing Arts Centre.*

#### 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.

[Model Code]

- 6.5 Staff involved in procurement, tendering or sales activities for Council must not accept any gift or benefit from potential or current suppliers or buyers.

- 6.6 The offer of a gift or benefit of any value from a person in circumstances where the person is seeking the exercise of your decision making discretion or where the person has sought the exercise of your decision making discretion in the previous 12 months must be refused.

[Council protocol]

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

- 6.7 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 6.9, accept any gift or benefit of more than token value as defined by clause 6.11
  - e accept an offer of cash or a cash-like gift as defined by clause 6.15, 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. **This includes frequent flyer programs when Council has met the cost of travel**

- 6.8 Where you receive an offer of 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 the name of the organisation they represent where not received from an individual
  - d the date on which the gift or benefit was received, and
  - e whether the gift or benefit was accepted or refused.
- 6.9 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.

[Model Code]

#### Gifts and benefits of token value

- 6.10 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$50. They include, but are not limited to:
- a invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$50
  - b gifts of alcohol that do not exceed a value of \$50
  - c ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
  - d prizes or awards that do not exceed \$50 in value.

[Model Code]

#### Gifts and benefits of more than token value

- 6.11 Gifts or benefits that exceed \$50 in value are gifts or benefits of more than token value for the purposes of clause 6.7d and, subject to clause 6.9, must not be accepted.
- 6.12 Gifts and benefits of more than token value include, but are not limited to:
- a tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$50,
  - b corporate hospitality at a corporate facility at major sporting events,
  - c 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,
  - d the use of holiday homes, artworks

- e free or discounted travel.

- 6.13 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$50 in value.

- 6.14 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.

[Model Code]

#### "Cash-like gifts"

- 6.15 For the purposes of clause 6.7e, "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.

[Model Code]

#### Improper and undue influence

- 6.16 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.
- 6.17 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.

[Model Code]



# 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 Lord 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 in the exercise of the functions of the staff member
- 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.

### Obligations of staff

7.3 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 Lord Mayor and other Councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.

7.4 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.

[Model Code]

### Inappropriate interactions

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

- a Councillors 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 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 who have lodged an application with the Council, discussing the matter with Council staff in staff-only areas of the Council
- e Councillors being overbearing or threatening to Council staff
- f Council staff being overbearing or threatening to Councillors
- g Councillors 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
- h Councillors directing or pressuring Council staff in the performance of

their work, or recommendations they should make

- i Council staff providing ad hoc advice to Councillors without recording or documenting the interaction as they would if the advice was provided to a member of the community
- j Council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals

[Model Code]

# Part 8: Access to Information & Council Resources



### Councillor and Administrator access to information

- 8.1 The General Manager is responsible for ensuring that Councillors and Administrator 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.

[Model Code]

### Refusal of access to information

- 8.7 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.

[Model Code]

### Use of certain Council information

- 8.8 In regard to information obtained in your capacity as a Council official, you must:
- a subject to clause 8.13, 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.

[Model Code]

### Use and security of confidential information

- 8.9 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.
- 8.10 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).

[Model Code]

#### Personal information

- 8.11 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 Council's *Privacy Management Plan*
  - e the *Privacy Code of Practice for Local Government*

[Model Code]

#### Use of Council resources

- 8.12 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.
- 8.13 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.
- 8.14 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.
- 8.15 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.
- 8.16 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.

- 8.17 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.
- 8.18 You must not convert any property of the Council to your own use unless properly authorised.

[Model Code]

#### Internet access and use of social media

- 8.19 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.

[Model Code]

- 8.20 When using social media, you must comply with the general conduct provisions of this Code.

[Council protocol]

#### Council record keeping

- 8.21 You must comply with the requirements of the *State Records Act 1998* and Council's *Corporate 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 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 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 [Information Manager](#) and comply with the requirements of the *State Records Act 1998*.

[Model Code]

#### Information Technology

- 8.25 You must comply with Council's information security requirements as set out in the *ICT Security, Technology Acceptable Use* and *Corporate Records Management* policies in relation to the use of information technology systems.

[Council protocol]

#### Councillor access to Council buildings

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

[Model Code]

# 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.

[Model Code]

### 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.

[Model Code]

### 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.

[Model Code]

### 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 a matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- 9.13 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*.

[Model Code]

### Complaints alleging a breach of this Part

- 9.14 Complaints alleging a breach of this Part by the General Manager are to be managed by the Office. This clause does not prevent the Office from referring an

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.

[Model Code]

# Schedule 1:

## Disclosures of Interests and other Matters in Written Returns Submitted Under Clause 4.18



## 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 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 4.18(a), the date on which a person became a designated person
- b) in the case of a return made under clause 4.18(b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.18(c), the date on which the 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 factor 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 designated person has an interest includes a reference to any real property situated in Australia in which the 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 designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.

## PART 2: PECUNIARY INTERESTS TO BE DISCLOSED IN RETURNS

### Real property

5. A person making a return under clause 4.18 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 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 4.18 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 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 4.18 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 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 4.18 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 designated person.

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

19. A person making a return under clause 4.18 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 4.18 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 designated person.

### Dispositions of real property

23. A person making a return under clause 4.18 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 4.18 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 designated person.

### Sources of income

26. A person making a return under clause 4.18 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 designated person need not be disclosed.
30. A person making a return under clause 4.18 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.
31. A liability to pay a debt must be disclosed by a person in a return made under clause 4.18 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.
32. 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 designated person.

## Debts

30. A person making a return under clause 4.18 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.

## Discretionary disclosures

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 if Interests Submitted Under Clause 4.18



### '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 2018* 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]*

*[Designated person's signature]*

*[date]*

#### A. Real Property

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

#### B. Sources of income

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

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

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

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

Sources of income I received from a trust since 30 June

Name and address of settlor	Name and address of trustee

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

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

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

#### C. Gifts

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

#### D. Contributions to travel

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

#### E. Interests and positions in corporations

Name and address of each corporation in which I had an interest or held a position at the return date/at any time since 30 June	Nature of interest (if any)	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)
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#### F. Were you a property developer or a close associate of a property developer on the return date? (Y/N)

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

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

#### H. Debts

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

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

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

#### J. Discretionary disclosures



APPROVAL AND REVIEW		
Responsible Division	Governance and Customer Service	
Date/s adopted		<i>Council</i> <b>21 February 2022</b>
Date/s of previous adoptions	16/11/2020, 27/02/2019, 20/11/2017, 25/02/2013, 01/02/2011, 23/07/2008, 16/10/2007, 28/02/2005, 28/06/2004	
Date of next review	October 2024	

WOLLONGONG CITY COUNCIL

# CODE OF CONDUCT COUNCILLORS

MARCH 2024



## Code of Conduct – Councillors

**STATEMENT FROM THE LORD MAYOR**

I am pleased to introduce to you Wollongong City Council's Code of Conduct for Councillors. The elected representatives of your Council are strongly committed to driving a high performing organisation underpinned by robust governance practices and ethics principles. The attitudes, values, beliefs, and behaviours of the elected representatives plays a critical role in establishing good governance practices throughout the Council at all levels. We are continually focused on proactively driving the highest ethical standards in our conduct and interactions and have zero-tolerance for fraud and corruption in decision making processes or the delivery of all our policies, processes, and projects throughout all levels of our organisation.



Protecting the reputation of the Council is vital to ensure our credibility and maintain public trust in what we do. The Code of Conduct helps all of us maintain the highest standards of ethical conduct and the adherence to its provisions gives confidence to the community that this a Council that is committed to the highest ethical standards. As Lord Mayor I am personally committed to the implementation of, and compliance with, the provisions of this Code.

Cr Gordon Bradbery AM

Lord Mayor

Code of Conduct – Councillors

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# Part 1: Introduction



## Code of Conduct – Councillors

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

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

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

Section 440 of the LGA requires every Council (including County Councils) and Joint Organisations to adopt a Code of Conduct that incorporates the provisions of the Model Code of Conduct. A Council's or Joint Organisation's adopted Code of Conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "Council Officials" for the purposes of the Model Code of Conduct (e.g. volunteers, contractors and members of wholly advisory Committees).

Council's adopted Code of Conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct. However, Council'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 Council, delegates of Council, (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.

**Note:** References in this Code of Conduct to Councils are also to be taken as references to County Councils and Joint Organisations.

### Council Values

Wollongong City Council has defined organisational values to support our purpose of creating an Extraordinary Wollongong. These are :

**Respect** - inclusive and considerate

**Sustainable** - use our community's resources responsibly

**Courage** - challenge the norm to be better

**Integrity** - honest and reliable

**One Team** - together we deliver excellent service

Our values are not meant to be just words on a page. They are part of everything we do every day. Our values are evident in this document by graphics that represent each value appearing on the cover page and each chapter page in the Code of Conduct.

# Part 2: Definitions



## Code of Conduct – Councillors

In this Code the following terms have the following meanings:

<b>Administrator Committee</b>	an Administrator of a Council appointed under the LGA other than an Administrator appointed under section 66 Committee
<b>Committee</b>	see the definition of “Council Committee”
<b>complaint</b>	a Code of Conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures.
<b>conduct</b>	includes acts and omissions
<b>Council</b>	Wollongong City Council
<b>Council Committee</b>	a Committee established by Council comprising of Councillors, staff or other persons that Council has delegated functions to and Council’s Audit, Risk and Improvement Committee
<b>Council Committee member</b>	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
<b>Council official</b>	includes Councillors, members of staff of Council, Administrators, Council Committee members, delegates of Council and, for the purposes of clause 4.16 of the Model Code of Conduct, Council advisers
<b>Councillor</b>	any person elected or appointed to civic office, including the Lord Mayor and includes members and chairpersons of County Councils and voting representatives of the boards of joint organisations and chairpersons of Joint Organisations
<b>delegate of Council</b>	a person (other than a Councillor or member of staff of Council) or body, and the individual members of that body, to whom a function of Council is delegated
<b>election campaign</b>	includes Council, state and federal election campaigns
<b>environmental planning instrument</b>	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>
<b>joint organisation</b>	a joint organisation established under section 400O of the LGA
<b>LGA</b>	the <i>Local Government Act 1993</i>
<b>local planning panel</b>	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
<b>Lord Mayor</b>	includes the chairperson of a County Council or a joint organisation
<b>members of staff of a Council</b>	includes members of staff of County Councils and joint organisations
<b>the Office</b>	Office of Local Government
<b>personal information</b>	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion



## Code of Conduct – Councillors

<b>the Procedures</b>	the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
<b>the Regulation</b>	the <i>Local Government (General) Regulation 2021</i>
<b>Voting representative</b>	a voting representative of the Board of a joint organisation
<b>wholly advisory Committee</b>	a Council Committee that the Council has not delegated any functions to

The term “you” used in this Code of Conduct refers to The Lord Mayor and Councillors.

DRAFT

# Part 3: General Conduct Obligations



## Code of Conduct – Councillors

### 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).

[Model Code]

### 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.

[Model Code]

### 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.

[Model Code]

- 3.8. All Council officials, including Councillors, that become aware of harassment or discrimination of another Council official are required to immediately report details to their supervisor, manager, Manager People and Culture, Public Officer, Professional Conduct Coordinator or the General Manager.

[Council Protocol]

### Sexual harassment

- 3.9. You must not sexually harass others, or support others who sexually harass others.
- 3.10. For the purposes of this Code, "sexual harassment" is any form of sexual behaviour towards a person that is unwanted or unwelcome and where a reasonable person would have anticipated the possibility that the person harassed would feel offended, humiliated or intimidated. Sexual harassment is unlawful under the Sex Discrimination Act and some types of sexual harassment may also be criminal offences.
- 3.11. Sexual harassment may involve, but is not limited to, any of the following types of behaviour:

- a) staring, leering or unwelcome touching
- b) suggestive comments or jokes
- c) unwanted invitations to go out on dates or requests for sex
- d) intrusive questions about a person's private life or body
- e) unnecessary familiarity, such as deliberately brushing up against a person
- f) emailing pornography or rude jokes
- g) displaying images of a sexual nature around the workplace
- h) communicating content of a sexual nature through social media or text messages
- i) behaviour which would also be an offence under the criminal law, such as physical assault, indecent exposure, sexual assault, stalking or obscene communications

## Code of Conduct – Councillors

j) dating, relationships or sexual conduct between employees, even if it is consensual, must not create an unpleasant and sexualised workplace for others.

- 3.12. All Council officials, including Councillors, that become aware of the sexual harassment of another Council official are required to immediately report details to their manager, Manager People and Culture, Public Officer, Professional Conduct Coordinator or the General Manager.

(Council protocol)

### Bullying

- 3.13. You must not engage in bullying behaviour towards others, or support others who engage in bullying behaviour towards others.

- 3.14. 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.

- 3.15. 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.

- 3.16. All Council officials, including Councillors, that become aware of bullying of another Council official are required to immediately report details to their supervisor, manager, Manager People and Culture, Public Officer, Professional Conduct Coordinator or the General Manager.

[Council Protocol]

- 3.17. Reasonable management action carried out in a reasonable manner does not constitute bullying, harassment or discrimination behaviours 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



## Code of Conduct – Councillors

- f legitimately exercising a regulatory function
  - g legitimately implementing a Council policy or administrative processes.
- [Model Code]

### Work health and safety

- 3.18. 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.

[Model Code]

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

- 3.19. 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.

- 3.20. 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.

[Model Code]

- 3.21. You must refrain from offering support to affected parties prior to the normal assessment or review processes of Council being undertaken.

[Council protocol]

### Binding caucus votes

- 3.22. You must not participate in binding caucus votes in relation to matters to be considered at a Council or Committee meeting.
- 3.23. 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.
- 3.24. 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.
- 3.25. Clause 3.15 does not apply to a decision to elect the Lord Mayor or Deputy Lord Mayor, or to nominate a person to be a member of a Council Committee or a representative of the Council on an external body.

[Model Code]

### Obligations in relation to meetings

- 3.26. 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.
- 3.27. You must not engage in bullying behaviour (as defined under this Part) towards the chair, other Council officials

## Code of Conduct – Councillors

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).

- 3.28. 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.
- 3.29. 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.

[Model Code]

### Public comment

- 3.30. The Lord Mayor and the General Manager are the official spokespersons on Council business.
- 3.31. The Lord Mayor may delegate Councillors to act as spokespersons for Council.
- 3.32. Councillors may choose to make comment to the media independently, i.e. not as a delegated spokesperson. In such instances statements should be identified as Councillor opinion and not the position of Council.

[Council protocol]

### Fraud and Corruption

- 3.33. You must not engage or participate in any act that may constitute fraud and corruption.
- 3.34. You must report any concerns that you reasonably believe may constitute fraud and/or corruption to Council's Professional Conduct Coordinator or the General Manager. Further, you must not

ignore or condone any act that you reasonably suspect to constitute fraud or corruption.

[Council protocol]

### Child protection

- 3.35 All Council officials, including Councillors, are required to support and promote the safety, wellbeing and empowerment of children under the age of 18. Specifically, you must:
- a take all reasonable steps to protect children from harm
  - b listen and respond to the views and concerns of children, particularly if they have stated that they or another child have been harmed in any way and/or are worried about their safety or the safety of another child
  - c promote the cultural safety, participation and empowerment of Aboriginal children, and children with a disability, and with culturally or linguistically diverse backgrounds
  - d model appropriate adult behaviour in an open and transparent way
  - e respect the privacy of parents and children by not disclosing personal information
  - f where child abuse is suspected, ensure that children are safe and protected from harm as quickly as possible
  - g encourage children to 'have a say' and participate in all relevant organisational activities where possible, especially on issues that are important to them
- 3.36. You must not:
- a develop any 'special' relationships with children that may be seen as favouritism or inappropriate, including through the provision of gifts, showing inappropriate attention or exhibiting improper behaviour
  - b exhibit behaviours or engage in activities with children that may be construed as unnecessarily physical contact
  - c put children at risk of harm
  - d do things of a personal nature that a child can do for themselves such as toileting or changing clothes

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- e engage in open discussions of a mature or adult nature, or use inappropriate language in the presence of children
- f express personal views on cultures, race or sexuality in the presence of children
- g discriminate against any child, including on the basis of age, gender, sexuality, race, cultural background or disability
- h ignore or disregard any concerns, suspicions or disclosures of child being harmed in any way

3.37. All Council officials, including Councillors, are required to immediately report any allegations of child abuse to Council's identified Child Protection Officer. In addition, you must:

- a Report information to the Police if you know, believe or have been informed by a child, family member or community member that a child has been abused, even if it involves another employeeCouncil official.
- b report any breach of the Child Protection standards in this Code of Conduct Council's identified Child Protection Officer.
- c understand and comply with all reporting and/or disclosure obligations, including mandatory reporting and reportable conduct

[Council protocol]

# Part 4: Pecuniary Interests





## Code of Conduct – Councillors

### 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.

[Model Code]

### 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 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
  - g 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
  - h 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,

## Code of Conduct – Councillors

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

- i an interest relating to the payment of fees to Councillors (including the Lord Mayor and Deputy Lord Mayor)
- j an interest relating to the payment of expenses and the provision of facilities to Councillors (including the Lord Mayor and Deputy Lord Mayor) in accordance with a policy under section 252 of the LGA
- k an interest relating to an election to the office of Lord Mayor arising from the fact that a fee for the following 12 months has been determined for the office of Lord Mayor
- l 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
- m an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Councillor
- n 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.

[Model Code]

### What disclosures must be made by a Councillor?

- 4.8 A Councillor:

- a must prepare and submit written returns of interests in accordance with clause 4.9, and
- b must disclose pecuniary interests in accordance with clause 4.16 and comply with clause 4.17 where it is applicable.

[Model Code]

### Disclosure of interests in written returns

- 4.9 A Councillor 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 interests as specified in schedule 1 to this Code within 3 months after:

- a becoming a Councillor, and b 30 June of each year, and
- c the Councillor 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).

- 4.10 A Councillor need not make and lodge a return under clause 4.9 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 in the preceding 3 months.

- 4.11 A Councillor must not make and lodge a return that the Councillor knows or ought reasonably to know is false or misleading in a material particular.

- 4.12 The General Manager must keep a register of returns required to be made and lodged with the General Manager.

- 4.13 Returns required to be lodged with the General Manager under clause 4.9(a) and (b), or a register of such returns, must be tabled at the first meeting of the Council after the last day the return is required to be lodged.

- 4.14 Returns required to be lodged with the General Manager under clause 4.9(c), or a register of such returns, must be tabled at the next Council meeting after the return is lodged.

- 4.15 Information contained in returns made and lodged under clause 4.9 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 2018* and any



## Code of Conduct – Councillors

guidelines issued by the Information Commissioner.

[Model Code]

### Disclosure of pecuniary interests at meetings

4.16 A Councillor 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.

4.17 The Councillor 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.

4.18 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 4.16 and 4.17 where they participate in the meeting by telephone or other electronic means.

4.19 A disclosure made at a meeting of a Council or Council Committee must be recorded in the minutes of the meeting.

4.20 A general notice may be given to the General Manager in writing by a Councillor to the effect that the Councillor or the Councillor'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 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.

4.21 A Councillor 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 has an interest in

the matter of a kind referred to in clause 4.6.

4.22 A Councillor does not breach clauses 4.16 or 4.17 if the Councillor 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.

4.23 Despite clause 4.17, 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.

4.24 Clause 4.17 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 4.25 in relation to the interest before the commencement of the meeting.

4.25 A special disclosure of a pecuniary interest made for the purposes of clause 4.24(c) must:

- a be in the form set out in schedule 3 of this Code and contain the information required by that form, and
- b be laid on the table at a meeting of the Council as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.

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- 4.26 The Minister for Local Government may, conditionally or unconditionally, allow a Councillor 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.
- 4.27 A Councillor 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 4.26, must still disclose the interest they have in the matter in accordance with clause 4.16.

[Model Code]

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# Part 5: Non-Pecuniary Conflicts of Interests



## Code of Conduct – Councillors

### 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.

[Model Code]

### 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.
- 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

## Code of Conduct – Councillors

- 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 4.16 and 4.17.
- 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 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.

[Model Code]

### Political donations

- 5.13 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.

- 5.14 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 4.16 and 4.17. A disclosure made under this clause must be recorded in the minutes of the meeting.
- 5.15 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*.
- 5.16 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.
- 5.17 Despite clause 5.14, 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.

[Model Code]

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

- 5.18 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:



## Code of Conduct – Councillors

- 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.
- 5.19** The Minister for Local Government may, conditionally or unconditionally, allow a Councillor 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.
- 5.20** Where the Minister exempts a Councillor from complying with a requirement under this Part under clause 5.19, the Councillor must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

[Model Code]

### Personal dealings with Council

- 5.21** 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.

- 5.22** 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.

[Model Code]

### Former Council officials

- 5.23** You must not use your position to obtain opportunities for future employment.
- 5.24** You must be careful in your dealings with former Council officials and ensure that you do not give or appear to give favourable treatment or access to otherwise confidential information to former Council officials.

[Council protocol]

### Sponsorship

- 5.25** Council actively seeks financial or in-kind sponsorship from a variety of sources to support specific events, promotions, services or other activities of Council. It is essential that sponsorships do not limit Council's ability to carry out its functions fully and impartially. All sponsorship arrangements must comply with Council's 'Sponsorship of Council Activities from External Sources' policy.

[Council protocol]

# Part 6: Personal Benefit





## Code of Conduct – Councillors

- 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 a 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 Councillors 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.

[Model Code]

*Note: In relation to 6.2(d) in circumstances where Council is the owner of, and is responsible for the management/operation of a facility, tickets to attend events at that facility that are provided to Councillors are deemed to be provided by Council in its capacity as owner of the facility. This includes, but is not limited to, the Illawarra Performing Arts Centre.*

## 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.  
[Model Code]
- 6.5 The offer of a gift or benefit of any value from a person in circumstances where the person is seeking the exercise of your decision making discretion or where the person has sought the exercise of your decision making discretion in the previous 12 months must be refused.  
[Council protocol]

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

- 6.6 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 6.8, accept any gift or benefit of more than token value as defined by clause 6.10
  - e accept an offer of cash or a cash-like gift as defined by clause 6.14, 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. **This includes frequent flyer programs when Council has met the cost of travel.**

## Code of Conduct – Councillors

- 6.7** Where you receive an offer of a gift or benefit of any value other than one referred to in clause 6.2, you must disclose this promptly to the General Manager in writing. The recipient 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 the name of the organisation they represent where not received from an individual.
  - d the date on which the gift or benefit was received, and
  - e whether the gift or benefit was accepted or refused.
- 6.8** 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.

[Model Code]

### Gifts and benefits of token value

- 6.9** You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$50. They include, but are not limited to:
- a invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$50
  - b gifts of alcohol that do not exceed a value of \$50
  - c ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
  - d prizes or awards that do not exceed \$50 in value.

### Gifts and benefits of more than token value

- 6.10** Gifts or benefits that exceed \$50 in value are gifts or benefits of more than token value for the purposes of clause 6.6(d) and, subject to clause 6.8, must not be accepted.
- 6.11** Gifts and benefits of more than token value include, but are not limited to,

tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$50, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.

- 6.12** Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$50 in value.
- 6.13** 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"

- 6.14** For the purposes of clause 6.6(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

- 6.15** 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.
- 6.16** 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





## Code of Conduct – Councillors

### 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 Lord 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 Lord 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.

[Model Code]

### 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 Lord 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.

[Model Code]

### 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

Code of Conduct – Councillors

- 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 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 Lord Mayor or Administrator, unless they are exercising their functions under section 226 of the LGA.

[Model Code]



# Part 8: Access to Information & Council Resources



## Code of Conduct – Councillors

### 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.
- [Model Code]
- 8.7 If a Councillor or Administrator requests access to information that relates to a Councillor's personal or business interests, other than civic, the Request must be made pursuant to the GIPA Act, the form for which is available on Council's website and will be processed in accordance with the timeframes set out in the Public Access to Council Documents and Information Policy.

[Council Protocol]

### Procedure for Councillors to Access Council Information

- 8.8 Councillors wishing to access Council information, other than "open access information" as prescribed in the GIPA Act, must make application to the Public Officer by completing Council's online "Councillor Request" available via email to [admin@wollongong.nsw.gov.au](mailto:admin@wollongong.nsw.gov.au). The Councillor Request should be drafted carefully and should precisely detail the information being sought. It is expected that Councillors will act reasonably in making Requests.
- 8.9 Councillor Requests relating to the exercise of a Councillor's functions of civic office will be processed as soon as possible and a response (or an interim response in the case of a complex Request) will be provided in accordance with the following guidelines:
- a same day response – information is easily accessible and no reference/investigation is required. Examples:
    - copy of a Council document
    - basic information on an Agenda Item on day of a Council meeting.
  - b one to five working day response – information is on hand but needs to be processed for release. Examples :
    - Submissions to a Development Application – documents are electronic and extra time required to extract and redact information where appropriate
    - request containing a number of questions which may relate to more than one Division and where responses need to be collated into a single reply
  - c within 10 working days – investigation and research is required in order to provide the requested information. Examples:
    - a comprehensive summary including Court Consent Orders for Planning Appeals
    - copies of documents where the files are stored offsite.

Where this investigation and research is extensive and/or complex and the 10 working day timeframe cannot be met, the Councillor lodging the request will be notified within five (5) working days and provided with an indication of when the information may be forthcoming.

## Code of Conduct – Councillors

8.10 Where it is believed that significant resources will be required to respond to a Councillor Request, or the number of Requests being submitted by a Councillor, the Public Officer will consider the time and/or costs that are likely to be incurred in providing the requested information and decide on granting access. An indication will also be given as to any other matters that will not be attended to as a result of compiling the requested information.

8.11 The following reports will be provided to Councillors via the Councillor Portal on a monthly basis:

- i active Councillor requests
- ii completed Councillor requests for the previous three months.

[Council protocol]

### Councillors and Administrators to properly examine and consider information

8.12 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

8.13 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.

[Model Code]

8.14 If access to the Council information sought by a Councillor is refused, a Councillor may lodge a formal application under the GIPA Act, or lodge a complaint with the Office of Local Government

8.15 If a Councillor makes a formal application under the GIPA Act that is refused a Councillor may ask for an internal review or an external review by the Information Commissioner.

[Council protocol]

### Use of certain Council information

8.16 In regard to information obtained in your capacity as a Council official, you must:

- a 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 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

8.17 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.

8.18 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 another 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).



## Code of Conduct – Councillors

- 8.19 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.
- 8.20 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 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.
- 8.21 You must not convert any property of the Council to your own use unless properly authorised.

### Personal information

- 8.22 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

- 8.23 You must use Council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes unless this use is lawfully authorised and proper payment is made where appropriate.
- 8.24 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.
- 8.25 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.

### Information Technology

- 8.26 You must comply with Council's information security requirements as set out in the Information Security policy, the Technology Systems Acceptable Usage policy and the Corporate Records Management policy in relation to the use of information technology systems. All information stored in either soft or hard copy is deemed to be related to the business of Council and can be used by Council as records regardless of whether the original intention of the creation of the information was for personal or business purposes.  
[Council protocol]

### Internet access

- 8.27 You must not use Council's computer resources or mobile or other devices to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, or that could otherwise lead to criminal penalty or civil liability and/or damage the Council's reputation.
- 8.28 When using social media, you must comply with the general conduct provisions of this Code.  
[Council protocol]

### Council record keeping

- 8.29 You must comply with the requirements of the State Records Act 1998 and the Council's records management policy.
- 8.30 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.
- 8.31 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.
- 8.32 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.

## Code of Conduct – Councillors

- 8.33 Records of Council business that are created or received by Councillors (with the exception of those sent from Council as they are already captured) shall be forwarded to Council as soon as is practicable for saving the record into Council's record keeping system. If documents concern sensitive or confidential matters they should be forwarded to Council's Public Officer, marked "Private and Confidential".

[Council Protocol]

### Councillor access to Council buildings

- 8.34 Councillors and Administrators are entitled to have access to the Council chamber, Committee room, Lord Mayor's office (subject to availability), Councillors' rooms, and public areas of Council's buildings during normal business hours and for meetings.
- 8.35 Councillors and Administrators needing access to these facilities at other times must obtain authority from the General Manager.
- 8.36 The General Manager will issue Councillors and Administrators with an access pass, authorising entry into the non-public areas of Council, in accordance with clause 8.28, during and outside of business hours.

[Council protocol]

- 8.37 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.
- 8.38 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
- 8.39 Councillors whilst not in pursuit of their civic duties have the same rights of access to Council buildings and premises as any other member of the public.
- 8.40 A Councillor must seek the prior consent of the relevant Divisional Manager, Director or the General Manager before entering a particular work area of Council.

[Council protocol]

### Councillor Briefings

- 8.41 Councillor briefing sessions are conducted to fully inform Councillors of matters of significance or complexity that are to be the subject of a staff report at a future meeting of Council or are of particular current interest to Council.

- 8.42 Councillor briefing sessions are subject to specific provisions in Council's Code of Meeting Practice

- 8.43 Councillor briefing sessions are not to be used for detailed discussions where agreement is reached or a de-facto decision is made and such discussions, exchanges of views and decisions are to be left to the open forum of a council meeting.

- 8.44 On occasion, confidential matters will be presented at Councillor Briefing and this will be noted in the presentation and accompanying documentation. Councillors must maintain the integrity and security of confidential documents or information distributed or discussed at Councillor Briefings.

- 8.45 The conflict of interest provisions of this Code apply to all Councillor briefing sessions.

- 8.46 Matters of general interest to Councillors may be the subject of an Information Note to Councillors from staff and are added to the monthly Information Folder via the Councillors' Portal. If an Information Note is marked confidential, Councillors and staff must maintain the integrity and security of confidential information in accordance with the Codes of Conduct and supporting policies.

[Council protocol]

### Interaction Between Councillors and Council Staff During Meetings

- 8.47 During Meetings a Councillor may, through the Chairperson, put a question to another Councillor and, may through the General Manager, put a question to Council staff.

- 8.48 A Councillor or 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 documents.

- 8.49 A Councillor must put every question directly, succinctly and without argument.



- 8.50 The Chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council staff. The General Manager or Council staff should use their best endeavours to provide answers to questions in a timely manner. It is not appropriate for the General Manager, Councillors or staff to ask the Council to determine whether the questions asked by individual Councillors should or should not be answered. It is also important that questions do not result in substantial new work or require the development of a new policy as part of the answer.

#### Interaction Between Councillors and Council Staff Outside of Meetings

- 8.51 Councillors may contact a Divisional Manager, Director or the General Manager to discuss, or to make arrangements to meet to discuss, Council services or projects. Councillors must not make direct contact with staff without the approval of the General Manager, Director or Divisional Manager and where such approval has been granted must not direct or pressure staff in the performance of their work. Staff must immediately report all breaches to their Divisional Manager, Director or General Manager.
- 8.52 Councillors must not request staff to undertake work for the Councillor or for any other person with the exception of work of a clerical nature directly related to the performance of their civic duties. Such a request must be made to the Public Officer.
- 8.53 Councillors must not take advantage of their official position to improperly influence other Councillors, members of staff or delegates in the performance of their public or professional duties for the purpose of securing private benefit for themselves or for some other person. Staff must immediately report all breaches to their Divisional Manager, Director or General Manager.

# Part 9: Maintaining the Integrity of this Code



## Code of Conduct – Councillors

### 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*.

Code of Conduct – Councillors

**Complaints alleging a breach of this Part**

- 9.14 Complaints alleging a breach of this Part by a Councillor or 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.

[Model Code]

DRAFT



# Schedule 1:

## Disclosures of Interests and other Matters in Written Returns Submitted Under Clause 4.9



Code of Conduct – Councillors

Part 1: Preliminary

Definitions

- 1 For the purposes of the schedules to this Code, the following definitions apply:

address	means: <ol style="list-style-type: none"><li>a in relation to a person other than a corporation, the last residential or business address of the person known to the Councillor disclosing the address, or</li><li>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</li><li>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 <i>Interpretation Act 1987</i>.</li></ol>
disposition of property	means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following: <ol style="list-style-type: none"><li>a the allotment of shares in a company</li><li>b the creation of a trust in respect of property</li><li>c the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property</li><li>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</li><li>e the exercise by a person of a general power of appointment over property in favour of another person</li><li>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.</li></ol>
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: <ol style="list-style-type: none"><li>a in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or</li><li>b in relation to a corporation, a relevant interest (within the meaning of section 9 of the <i>Corporations Act 2001</i> of the Commonwealth) in securities issued or made available by the corporation.</li></ol>
listed company	means a company that is listed within the meaning of section 9 of the <i>Corporations Act 2001</i> 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: <ol style="list-style-type: none"><li>a in the case of a return made under clause 4.9(a) , the date on which a person became a Councillor</li></ol>

## Code of Conduct – Councillors

- b in the case of a return made under clause 4.9(b) , 30 June of the year in which the return is made
  - c in the case of a return made under clause 4.9(c) , the date on which the Councillor 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 factor 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 has an interest includes a reference to any real property situated in Australia in which the Councillor 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 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.

## Code of Conduct – Councillors

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

#### Real property

5. A person making a return under clause 4.9 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.
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 4.9 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.
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 4.9 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



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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.
- 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 4.9 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.

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

- 19. A person making a return under clause 4.9 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 4.9 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.

### Dispositions of real property

- 23. A person making a return under clause 4.9 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.

## Code of Conduct – Councillors

24. A person making a return under clause 4.9 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.

### Sources of income

26. A person making a return under clause 4.9 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 need not be disclosed.
30. A fee paid to a Councillor or to the Lord Mayor or Deputy Lord Mayor under sections 248 or 249 of the LGA need not be disclosed.

### Debts

31. A person making a return under clause 4.9 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 4.9 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

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- 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.

**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 if Interests Submitted Under Clause 4.9





## Code of Conduct – Councillors

### '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 2018* 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.

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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]*

*[Designated person's signature]*

*[date]*

*This form must be completed in BLOCK letters or typed*

**A. Real Property**

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

**B. Sources of income**

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

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

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

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

Sources of income I received from a trust since 30 June

Name and address of settlor	Name and address of trustee

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

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

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

**C. Gifts**

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

**D. Contributions to travel**

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

**E. Interests and positions in corporations**

Name and address of each corporation in which I had an interest	Nature of interest (if any)	Description of position (if any)	Description of principal objects (if any) of

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*This form must be completed in BLOCK letters or typed*

or held a position at the return date/at any time since 30 June	corporation (except in case of listed company)
--	---

F. Were you a property developer or a close associate of a property developer on the return date?

(Y/N)

G. Positions in trade unions and professional or business associations

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

H. Debts

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

I. Dispositions of property

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

J. Discretionary disclosures

# Schedule 3:

## Form of Special Disclosure of Pecuniary Interest Submitted Under Clause 4.25





## Code of Conduct – Councillors

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 [date] day of [month] 20[year]

*This form must be completed in BLOCK letters or typed*

**Pecuniary interest**

**Address of the affected principal place of residence of the Councillor or an associated person, company or body (the identified land)**

[Address]

Relationship of identified land to the Councillor

[Tick or cross one box.]

- ☐ The Councillor has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise).
- ☐ An associated person of the Councillor has an interest in the land.
- ☐ An associated company or body of the Councillor has an interest in the land.

**Matter giving rise to pecuniary interest<sup>1</sup>**

Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land)<sup>2</sup> [Tick or cross one box]

- ☐ The identified land.
- ☐ Land that adjoins or is adjacent to or is in proximity to the identified land.

Current zone/planning control

[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]

Proposed change of zone/planning control

[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]

Effect of proposed change of zone/planning control on Councillor or associated person

[Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]

[If more than one pecuniary interest is to be declared, reprint the above box and fill in for each additional interest.]

Councillor's signature: \_\_\_\_\_

Date: \_\_\_\_\_

[This form is to be retained by the Council's General Manager and included in full in the minutes of the meeting]

<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.

# Attachment 1: Summary of Councillor Request Process



TYPE OF REQUEST	FORM OF REQUEST	PROCESS
Action (eg repairs to footpath, mowing of park)	Email to <a href="mailto:admin@wollongong.nsw.gov.au">admin@wollongong.nsw.gov.au</a>	Request entered into Customer Service Request system and allocated a request number which is notified to Councillor.
Access to Council documents for a purpose related to your role as a Councillor	Email to <a href="mailto:admin@wollongong.nsw.gov.au">admin@wollongong.nsw.gov.au</a>	
Access to documents for a private purpose	Application under GIPA Act	Referral to Information Management for determination.
Access to Council Workplace, other than as defined in this Code	Telephone request to relevant Divisional Manager, Director or General Manager	Co-ordination by Divisional Manager, Director or General Manager.
Advice (eg technical advice, current status of development application, request for allocation of capital budgets)	Electronic Councillor Request via email to <a href="mailto:admin@wollongong.nsw.gov.au">admin@wollongong.nsw.gov.au</a>	Registration and referral to relevant Divisional Manager with copy to Director and General Manager. Divisional Manager to update register as to progress of Request.
Administrative or Technology Support	Phone call or email to Manager, Governance and Customer Service or Governance and Risk Manager.	Arranged in accordance with Councillors Expenses and Facilities Policy.
Discussion of Council services or projects	Telephone request or personal contact with relevant Divisional Manager, Director or General Manager	Co-ordination by Divisional Manager, Director or General Manager.



APPROVAL AND REVIEW		
<b>Responsible Division</b>	Governance and Customer Service	
<b>Date/s adopted</b>		<i>Council</i> 21 February 2022
<b>Date/s of previous adoptions</b>	16/11/2020, 27/02/2019, 20/11/2017, 25/02/2013, 01/02/2011, 23/07/2008, 16/10/2007, 28/02/2005, 28/06/2004	
<b>Date of next review</b>	October 2024	

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