



Burwood Council
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ORDINARY MEETING

Notice is hereby given that a meeting of the Council of Burwood will be held in the Council Chamber, Suite 1, Level 2, 1-17 Elsie Street, Burwood on Tuesday 26 March 2019 at 6.00 pm to consider the matters contained in the attached Agenda.

Bruce Macdonnell
GENERAL MANAGER

Our Mission

**Burwood Council will create a quality lifestyle for its citizens
by promoting harmony and excellence in the delivery of its services**

CONFLICT OF INTERESTS

What is a "Conflict of Interests" - A conflict of interests can be of two types:

Pecuniary - 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 a matter or if the interest is of a kind specified in Section 448 of the Local Government Act.

Non-pecuniary – are private or personal interests the Council official has that do not amount to a pecuniary interest as defined in the Local Government Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

Who has a Pecuniary Interest? - A person has a pecuniary interest in a matter if the pecuniary interest is the interest of:

- The person, or
- The person's spouse or de facto partner or a relative of the person, or a partner or employer of the person, or
- A company or other body of which the person, or a nominee, partner or employer of the person, is a member.

No Interest in the Matter - However, a person is not taken to have a pecuniary interest in a matter:

- If the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
- Just because the person is a member of, or is employed by, a Council or statutory body or is employed by the Crown.
- Just because the person is a member of, or a delegate of the 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.

N.B. "Relative", in relation to a person means any of the following:

- a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descends or adopted child of the person or of the person's spouse;
- b) the spouse or de facto partners of the person or of a person referred to in paragraph (a)

Disclosure and participation in meetings

- A Councillor or a member of a Council Committee 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.
- The Councillor or member must not be present at, or in sight of, the meeting of the Council or Committee:
 - (a) at any time during which the matter is being considered or discussed by the Council or Committee, or
 - (b) at any time during which the Council or Committee is voting on any question in relation to the matter.

No Knowledge - A person does not breach the Act 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 he or she had a pecuniary interest.

What interests do not have to be disclosed (S 448 Act)?

- (a) an interest as an elector,
- (b) an interest as a ratepayer or person liable to pay a charge,
- (c) an interest 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 Part,
- (d) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part,
- (e) an interest 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 of a member of a council committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee,
- (g) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument other than an instrument that effects a change of the permissible uses of:
 - (i) land in which the person or a person, company or body referred to in section 443 (1) (b) or (c) has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise), or
 - (ii) land adjoining, adjacent to or in proximity to land referred to in subparagraph (i), if the person or the person, company or body referred to in section 443 (1) (b) or (c) would by reason of the proprietary interest have a pecuniary interest in the proposal,
- (h) an interest 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,

- (i) an interest of a person 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 a relative of the person 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,
- (j) an interest of a person arising from the making by the council of a contract or agreement with a relative of the person 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 the 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,
- (k) an interest relating to the payment of fees to councillors (including the mayor and deputy mayor),
- (l) an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252,
- (m) an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor,
- (n) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person,
- (o) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or member of a council committee,
- (p) an interest arising from appointment of a councillor to a body as representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

A Councillor is not prevented from taking part in the consideration or discussion of, or from voting on, any of the matters/questions detailed in Section 448 of the Local Government Act.

Non-pecuniary Interests - Must be disclosed in meetings.

If you are a Council official, other than a member of staff of Council and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:

- a) Remove the source of the conflict by relinquishing or divesting the interest that creates the conflict, or reallocating the conflicting duties to another Council official;
- b) Have no involvement in the matter, by absenting yourself from and not taking part in any debate or voting on the issue as if the provisions in Section 451(2) of the Act apply.

If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.

Disclosures to be Recorded - A disclosure (and the reason/s for the disclosure) made at a meeting of the Council or Council Committee must be recorded in the minutes of the meeting.

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AGENDA

**FOR AN ORDINARY MEETING OF BURWOOD COUNCIL
TO BE HELD ON TUESDAY 26 MARCH 2019 IN THE COUNCIL CHAMBERS, 1-17 ELSIE STREET,
BURWOOD COMMENCING AT 6.00 PM.**

I DECLARE THE MEETING OPENED AT (READ BY MAYOR)

ACKNOWLEDGEMENT OF COUNTRY (READ BY MAYOR)

"I would like to acknowledge the Wangal people who are the Traditional Custodian of this Land. I would also like to pay respect to the Elders both past and present of the Wangal Nation and extend that respect to other Aboriginals present".

PRAYER (READ BY MAYOR)

"Lord, we humbly beseech thee to vouchsafe thy blessing on this Council, direct and prosper its deliberations for the advancement of this area and the true welfare of its people."

TAPE RECORDING OF MEETING (READ BY MAYOR)

"Members of the Public are advised that Meetings of Council and Council Committees are audio recorded for the purpose of assisting with the preparation of Minutes.

The tape recordings will be subject to the provisions of the Government Information (Public Access) Act 2009 (GIPA).

Tapes are destroyed two (2) months after the date of the recording"

APOLOGIES/LEAVE OF ABSENCES

DECLARATIONS OF INTERESTS BY COUNCILLORS

DECLARATION OF POLITICAL DONATIONS (READ BY MAYOR)

"Councillors & Members of the Gallery

As a result of recent changes to the Legislation that governs the legal process for the determination of Development Applications before Council, a person who makes a relevant application to Council or any person with a financial interest in the application must now disclose any reportable political donation or gift made to any local Councillor or employee of Council. Council will now require in its Development Application Forms this disclosure to be made.

Council is also required to publish on its website all reportable political donations or gifts. Should any person having business before Council this evening and being an applicant or party having a financial interest in such application feel that they have not made the appropriate disclosure, Council now invites them to approach the General Manager and to make their disclosure according to Law."

RECORDING OF COUNCILLORS VOTING ON PLANNING DECISIONS

In accordance with Section 375A of the Local Government Act a division must be called for and taken on every Environmental Planning & Assessment decision. The names of those Councillors supporting and those opposed to the decision are to be recorded in the meeting minutes and the register retained by the General Manager.

OPEN FORUM ACKNOWLEDGMENT (READ BY MAYOR)

The Mayor to ask each speaker to confirm that they had read the guidelines about addressing the Council and acknowledge that they had been informed that the meeting was being recorded and that the Council accepts no responsibility for any defamatory comments made. Speakers should refrain from providing personal information unless it is necessary to the subject being discussed, particularly where the personal information relates to persons not present at the meeting

OPEN FORUM COMMENCES

CONFIRMATION OF MINUTES

Recommendation

That the Minutes of the following Meeting of Burwood Council:

A. Council Meeting held on 5 February 2019

copies of which were previously circulated to all Councillors be and hereby confirmed as a true and correct record of the proceedings of that meeting.

ADDRESS BY THE PUBLIC ON AGENDA ITEMS ACKNOWLEDGMENT (READ BY MAYOR)

The Mayor to ask each speaker to confirm that they had read the guidelines about addressing the Council and acknowledge that they had been informed that the meeting was being recorded and that the Council accepts no responsibility for any defamatory comments made.

ADDRESS BY THE PUBLIC ON AGENDA ITEMS COMMENCES

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(ITEM 28/19)	SSROC REGIONAL MATTRESS COLLECTION CONTRACT
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That above item be considered in Closed Session to the exclusion of the press and public in accordance with Section 10A(2) (d) of the Local Government Act, 1993, as the matter involves commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret.

(ITEM 30/19)	2 & 2A COMER STREET BURWOOD - PROPOSED LEASE TO MONTESSORI ACADEMY GROUP PTY LTD
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That above item be considered in Closed Session to the exclusion of the press and public in accordance with Section 10A(2) (c) of the Local Government Act, 1993, as the matter involves information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

(ITEM 29/19)	TENDER FOR DOMESTIC KERBSIDE COLLECTION OF WASTE, RECYCLING, GARDEN WASTE AND CLEAN UP SERVICES
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That above item be considered in Closed Session to the exclusion of the press and public in accordance with Section 10A(2) (d) of the Local Government Act, 1993, as the matter involves commercial information of a confidential nature that would, if disclosed (i) prejudice the commercial position of the person who supplied it; or (ii) confer a commercial advantage on a competitor of the Council; or (iii) reveal a trade secret.

QUESTIONS WITHOUT NOTICE

Councillors are requested to submit any Questions Without Notice in writing.

NOTICE OF MOTION**(ITEM NM2/19) COMPLIANCE REVIEW WORKING GROUP**

File No: 19/10078

Councillor Heather Crichton to move that:

Increasingly I have been receiving representations from our residents about our compliance and enforcement practices, in particular in relation to the level of customer service related to such activities.

I believe that, instead of dealing with the growing number of regular complaints and representations from residents, a more strategic approach for Council to adopt is to undertake a thorough review of our compliance policies and procedures, with the intent of identifying ways to better align our practices with our Community Strategic Plan and community expectations.

I therefore recommend that Council approve the establishment of a Council Compliance Review Committee, comprising the Mayor and two Councillors, with the purpose of reviewing all compliance and regulatory enforcement related policies, corporate practices, procedures and guidelines, and potentially recommend amendments.

Given the complexity of the area of review, I would like to recommend that such a Review Committee be briefed and supported by relevant staff members, and that any review be conducted with clear identification of legislative frameworks, State policies and a comprehensive risk assessment.

Additionally I would like to recommend that any changes the Review Committee might recommend should be considered through Council's established processes for policy development and approval; and that a review of such potential amendments be conducted also by Council's Audit Risk and Improvement Committee, to provide a further layer of control and probity.

I therefore move that:

1. Council establish a Council Compliance Review Committee.
2. Two councillors be nominated to be part of the Review Committee, in addition to the Mayor.
3. Relevant staff be involved in briefing the Review Committee, in relation to applicable legislation, policies, corporate practices, procedures and guidelines.
4. Relevant staff conduct a risk assessment on any potential changes recommended by the Review Committee.
5. Any revised policy or procedure be reviewed through Council's established processes for policy development and approval.
6. Any revised policy or procedure be presented to Council's Audit Risk and Improvement Committee for comment and that matters for review be considered in a timely manner.

Attachments

There are no attachments for this report.

(ITEM 14/19) PLANNING PROPOSAL TO AMEND CLAUSE 6.2(5) OF THE BURWOOD LOCAL ENVIRONMENTAL PLAN 2012 - DEFINITION OF FLOOD PLANNING LEVEL

File No: 19/4403

REPORT BY DEPUTY GENERAL MANAGER LAND, INFRASTRUCTURE & ENVIRONMENT

Summary

Council commissioned four Draft Overland Flood Studies that cover the Burwood Local Government Area (LGA). These studies were reported to Council on 26 June 2018, when it was resolved that a Planning Proposal (PP) be prepared to amend the flooding clause in the Burwood Local Environmental Plan 2012 (BLEP), for submission to the Department of Planning and Environment (DPE) for a Gateway Determination.

The PP was reported to the Burwood Local Planning Panel (BLPP) meeting of 13 November 2018. The BLPP recommended that the PP proceed to Gateway. In accordance with the relevant Ministerial Direction, this report seeks Council's consideration of the BLPP's advice. This report recommends that Council reiterate its earlier resolution to progress the PP.

Operational Plan Objective

3.4.3 Environmentally sustainable developments which reduce impacts on the environment.

Background

As part of the Floodplain Risk Management process endorsed by the NSW Government Floodplain Development Manual (FDM) April 2005, Council engaged consultants to carry out four Draft Overland Flood Studies covering the entire Burwood LGA. These Draft Studies were carried out following successful grant funding applications through the NSW Office of Environment and Heritage.

These four Draft Studies are known as:

- Dobroyd Canal Overland Flood Study, October 2013
- Cooks River Overland Flood Study, May 2014
- Powells Creek Overland Flood Study, March 2016
- Exile Bay-St Lukes-William Street Overland Flood Study, March 2017

One of the outcomes of these studies under the Floodplain Risk Management process is to help Council identify the Flood Planning Area (FPA) based on flood inundation created by various flood models. The Consolidated Flood Identification (CFI) Map is a consolidated map which shows all the properties potentially affected by overland or mainstream flooding as identified by the four studies mentioned above.

Council Meeting of 26 June 2018

Council at its meeting on 26 June 2018 resolved to adopt the recommendations of the four Draft Overland Flood Studies and to incorporate the findings into the CFI Map to reinforce its commitment towards the NSW Floodplain Risk Management process. Council resolved to prepare a PP to amend Clause 6.2(5) of the BLEP and to submit the PP to the DPE for a Gateway Determination.

Discussion

Burwood Local Planning Panel Meeting of 13 November 2018

A PP to amend Clause 6.2(5) of the BLEP was prepared following the Council resolution of 26 June 2018. In accordance with the Ministerial Direction concerning PPs and Local Planning Panels, the PP was reported to the BLPP meeting of 13 November 2018. The BLPP recommended that the PP proceed for a Gateway Determination subject to the following:

1. The CFI Map be prepared in accordance with the DPE guidelines
2. The supporting flood studies be exhibited with the PP

Response to BLPP's Advice

The following points are made in respect to the BLPP's advice:

1. The Consolidated Flood Identification Map has indeed been prepared in accordance with State Government guidelines relating to Floodplain Management as issued by the NSW Office of Environment and Heritage (as opposed to the NSW Department of Planning and Environment which provides only limited guidance on flood matters).
2. The supporting flood studies have already been publicly exhibited from 16 July 2018 to 15 October 2018. Notwithstanding, it is Council's intention that the flood studies continue to be made available during the exhibition of the PP.

Ministerial Direction

A Ministerial Direction issued in September 2018 requires that a local planning panel must have given its advice on a PP before a council considers whether or not to forward the PP for a Gateway Determination. This report therefore seeks Council's consideration of the BLPP's advice.

Consultation

Council's Engineering Team was consulted in the formation of the PP. Any future Gateway Determination issued by the DPE would set out formal requirements for public exhibition and community consultation.

Planning or Policy Implications

The amendment to Clause 6.2(5) of the BLEP will assist Council to better define the flood planning level, thereby enforcing the flood controls upon land subject to flooding.

This report ensures Council's processes are consistent with Ministerial Directions in respect to PPs and the BLPP.

Financial Implications

This PP was prepared in house. There are no financial implications for Council.

Conclusion

It is recommended that Council consider the BLPP's advice and reiterate its earlier resolution to progress the PP to the Gateway Determination stage.

Recommendation(s)

1. That Council note the Burwood Local Planning Panel's advice concerning the Planning Proposal.
2. That Council reiterate its earlier resolution to submit the Planning Proposal to amend the flooding clause in the Burwood Local Environmental Plan 2012 to the Department of Planning & Environment for a Gateway Determination.
3. That Council reiterate its earlier resolution to place the Planning Proposal on public exhibition in accordance with the Gateway Determination, and report the outcomes of the public exhibition back to Council.

Attachments

- 1 [↓](#) Planning Proposal - Amendment to Clause 6.2(5) of the BLEP 2018 - Definition of Flood Planning Level



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Planning Proposal

Amendment to Clause 6.2(5) of the Burwood Local Environmental Plan 2012 – Definition of Flood Planning Level

Revised January 2019

A Planning Proposal is the first step in proposing amendments to Council's principle environmental planning instrument, known as the Burwood Local Environmental Plan (BLEP) 2012. A Planning Proposal explains the intended effect of the proposed amendment and also sets out the justification for making the change. The Planning Proposal is submitted to the NSW Department of Planning and Environment (DP&E) for its consideration, referred to as the Gateway Determination, and is also made available to the public as part of the community consultation process.

Part 1 – Objectives or Intended Outcomes

The intent of the Planning Proposal (PP) is to amend Clause 6.2(5) of the Burwood Local Environmental Plan (BLEP) 2012. Clause 6.2(5) provides a definition for land that is considered to be at or below the flood planning level.

Four Draft Overland Flood Studies of the Burwood Local Government Area (LGA) were undertaken by consultants on behalf of Burwood Council. These Studies have led to the development of the Consolidated Flood Identification (CFI) Map. The CFI Map incorporates the recommendations of the Flood Studies to accurately identify potentially flood prone land.

Council seeks to replace the definition in Clause 6.2(5) such that it refers to the CFI Map.

Part 2 – Explanation of the Provisions

Council commissioned external consultants to undertake Overland Flood Studies that inform the appropriate flooding description and levels to be incorporated within the Burwood Local Environmental Plan 2012. The studies undertaken were as follows:

- Dobroyd Canal Overland Flood Study

- Cooks River Overland Flood Study
- Powells Creek Overland Flood Study
- Exile Bay-St Luke's-William Street Overland Flood Study

Section 6.2(5) of the BLEP currently reads "*land at or below the flood planning level means land at or below the level of a 1:100 ARI (average recurrent interval) flood event plus 0.50 metre freeboard*".

Council seeks that the existing definition be amended to refer to "*land at or below the flood planning level means land as identified on the Consolidated Flood Identification Map*".

Amendment of Clause 6.2(5) of the BLEP ensures consistency in Council's assessment of Development Applications (DAs) and flood management practices.

The PP does not seek to amend the zoning, building heights or floor space ratio of the parcels of land. The CFI Map is not a BLEP Map, and no BLEP maps will be amended by the PP.



Part 3 – Justification

Section A – Need for the Planning Proposal

1. *Is the planning proposal part of any strategic study or report?*

Yes. This PP is in response to a Council resolution dated 26 June 2018 relating to the identification of flood affected land.

Council commissioned consultants to undertake four Overland Flood Studies to provide greater certainty with respect to flood affected land within the Burwood LGA. The Studies led to the development of the Consolidated Flood Identification (CFI) Map which identifies any parcels at risk of potential flooding. The additional data provided by the Studies recognises Council's commitment to the NSW Floodplain Risk Management Process

2. *Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?*

Yes. The PP is considered the best means of amending Clause 6.2(5) of the BLEP to ensure the most current flooding information is publicly accessible and is used by Council in its flood management practices.

Section B – Relationship to Strategic Planning Framework

3. *Is the planning proposal consistent with the objectives and actions of the applicable regional and sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?*

Yes. The PP is consistent with metropolitan, subregional and district strategies.

The State Government has prepared the Eastern City District Plan (to which Burwood LGA belongs) to manage growth for the next 20 years in the context of economic, social and environmental matters at a district level, to contribute towards the 40-year vision for Greater Sydney. It contains the planning priorities and actions for implementing the Greater Sydney Region Plan, *A Metropolis of Three Cities*, at a district level, and is a bridge between local and regional planning.

Objective 37 of the Region Plan and Eastern City District Plan considers potential exposure to natural and urban hazards and prioritises reducing impacts, stating that *"To be resilient, communities need social cohesion, access to economic resources, and access to quality information about hazards that may affect them and their property"*. The Floodplain Development Manual (FDM) 2005 is referred to within the objective.

The PP is consistent with both the objective and FDM 2005 and will provide the community with a greater amount of detail relating to potential flood risk.

4. *Is the planning proposal consistent with Council's local strategy or other local strategic plan?*

Yes. The Burwood 2030 Community Strategic Plan recognises the need for providing a well-connected, sustainable and safe community. The Burwood 2030 Community Strategic Plan

describes the long term vision for Burwood as, *"A well connected, innovative, sustainable and safe community that embraces and celebrates its diversity"*.

While flood management is not specifically mentioned, a key theme of the Burwood 2030 Community Strategic Plan is, *"Maintaining and ensuring we live in a healthy, safe and sustainable natural environment"*.

Strategic Goal 4.4 of the Burwood 2030 Community Strategic Plan is to *"Participate in regional planning and infrastructure projects to ensure the best outcomes for the community"*. The PP helps to facilitate development by identifying potential land at risk of flooding and ensuring the best planning outcome for the entire community.

5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

All SEPPs applicable to the Burwood local government area are set out in the table below, together with a comment regarding the PP's consistency:

SEPP	Comment
SEPP No. 1 – Development Standards	Not relevant. BLEP 2012 contains a clause which replaces this SEPP in relation to variations to development standards.
SEPP No. 19 – Bushland in Urban Areas	Not relevant.
SEPP No. 21 – Caravan Parks	Not relevant.
SEPP No. 30 – Intensive Agriculture	Not relevant.
SEPP No. 33 – Hazardous and Offensive Development	Not relevant.
SEPP No. 50 – Canal Estate Development	Not relevant.
SEPP No. 55 – Remediation of Land	Not relevant.
SEPP No. 64 – Advertising and Signage	Not relevant.
SEPP No. 65 – Design Quality of Residential Apartment Development	Not relevant. Only applicable to development of three storeys or more. The SEPP may become relevant should a redevelopment of any site on the Consolidated Flood Identification Map be proposed in the future, in which case the design controls under the Apartment Design Guide (ADG) would need to be considered.
SEPP No. 70 – Affordable Housing (Revised Schemes)	Not relevant.
SEPP (Building Sustainability Index: BASIX) 2004	Not relevant.
SEPP (Housing for Seniors or People with a Disability) 2004	Not relevant.
SEPP (Major Developments) 2005	Not relevant.
SEPP (Infrastructure) 2007	Not relevant.
SEPP (Miscellaneous Consent Provisions) 2007	Not relevant.
SEPP (Mining, Petroleum and Extractive Industries) 2007	Not relevant.
SEPP (Repeal of Concurrence and Referral Provisions) 2008	Not relevant.

SEPP (Exempt and Complying Development Codes) 2008	Lots identified on the Consolidated Flood Identification Map will not be eligible for exempt development. Complying development applications will need additional information to be provided by a Hydraulic Engineer to consider the appropriateness of the proposed development.
SEPP (Affordable Rental Housing) 2009	Complying development applications will need additional information to be provided by a Hydraulic Engineer to consider the appropriateness of the proposed development.
SEPP (Vegetation in Non-Rural Areas) 2017	Not relevant.
SEPP (Educational Establishments and Child Care Facilities) 2017	Not relevant.
Draft Coastal Management SEPP	Not relevant. The subject properties are not located within the coastal areas identified by this SEPP.

6. Is the planning proposal consistent with applicable Ministerial Directions (s. 7.17 directions)?

Yes. Consistency with the list of Directions by the Minister for Planning (pursuant to section 7.17(2) of the Act) is set out in the following table.

Direction	Issue Date / Date Effective	Comment
1. Employment and Resources	1 July 2009	
1.1 Business and Industrial Zones		Not relevant.
1.2 Rural Zones		Not relevant.
1.3 Mining, Petroleum Production and Extractive Industries		Not relevant.
1.4 Oyster Aquaculture		Not relevant.
1.5 Rural Lands		Not relevant.
2. Environment and Heritage	1 July 2009	
2.1 Environment Protection Zones		Not relevant.
2.2 Coastal Protection		Not relevant.
2.3 Heritage Conservation		Not relevant.
2.4 Recreation Vehicle Areas		Not relevant.
2.5 Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs	14 April 2016	Not relevant.
3. Housing, Infrastructure and Urban Development	1 July 2009	
3.1 Residential Zones		The Planning Proposal does not seek to amend the zoning or range of permissible uses on the site.
3.2 Caravan Parks and Manufactured Home Estates		Not relevant.
3.3 Home Occupations		Not relevant.
3.4 Integrating Land Use and Transport		Not relevant.

3.5 Development Near Licensed Aerodromes		Not relevant.
4. Hazard and Risk	1 July 2009	
4.1 Acid Sulfate Soils		The majority of properties within the Burwood LGA have class 5 acid sulfate soil. A number of properties located between the southern boundary of the LGA and Mitchell Street are identified as having class 4 acid sulfate soil. The PP will not alter the sulfate classifications.
4.2 Mine Subsidence and Unstable Land		Not relevant.
4.3 Flood Prone Land		<p>The objectives of the direction are:</p> <p>(a) to ensure that development of flood prone land is consistent with the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual 2005, and</p> <p>(b) to ensure that the provisions of an LEP on flood prone land is commensurate with flood hazard and includes consideration of the potential flood impacts both on and off the subject land.</p> <p>This PP satisfies the objectives of the direction.</p> <p>With specific reference to objective 'a' and clause 8 of the direction, Council advises that the recent Flood Studies have been undertaken in accordance with the Floodplain Development Manual (FDM) 2005.</p> <p>Each of the Flood Studies reference the FDM 2005. These studies may be read on Council's website. Council was provided grant funding by the Office of Environment & Heritage to prepare these studies, on the basis that this work was consistent with the State Government's Floodplain Management Program. Furthermore, Section 6.4 'Flood Planning' of Council's Development Control Plan (DCP) affirms Council's commitment to the Floodplain Management Development Manual.</p> <p>The FDM 2005 specifies four stages for the identification and management of flood liable land. The CFI Map has been developed utilising these stages, namely, flood studies (determine the nature of the problem), Floodplain Risk Management (evaluate options, in respect to both existing and proposed development) Floodplain Risk Management Plan (formal adoption by Council of the plan), and implementation of the plan (use of LEPs to ensure new development is compatible with flood hazards).</p> <p>The first two stages have been completed, with the third and fourth stages being facilitated (in part) by this PP.</p>

ITEM NUMBER 14/19 - ATTACHMENT 1

Planning Proposal - Amendment to Clause 6.2(5) of the BLEP 2018 - Definition of Flood Planning Level

		<p>With specific reference to clause 7 of the direction, it is noted that this PP does not impose flood related planning controls above the residential flood planning level for residential development on land.</p> <p>The development controls are not altered by this PP. The criteria for granting consent to development on flood liable land remain as per BLEP clause 6.2(3) – which are written in accordance with the State Government's Model Provisions. Likewise, DCP controls remain the same – largely based on the principle that ground floor levels in new development must be sufficiently elevated so as not to be subject to flooding.</p> <p>The identification of properties on the Consolidated Flood Identification Map is more robust than would be provided under the current definition of Flood Planning Level in the BLEP that relies on the 1:100 average recurrent interval (ARI) extent.</p> <p>The Map is a consolidation of the work of two experienced Hydraulic Engineering firms, across four study areas, with work that included the "ground-truthing" of potentially affected parcels of land. The engineers inspected above-ground features along each catchment's overland flowpaths, following a calibration and verification of a hydraulic model. This work entailed producing design flood results and mapping the peak food depth in detail across catchments. By going beyond a "desktop" or modelled scenario, the resulting data is more accurate, and fewer parcels of land would be affected by flood related planning controls.</p>
4.4 Planning for Bushfire Protection		Not relevant.
5. Regional Planning	<p>1 July 2009 (Except for new Direction 5.4 effective 29 Nov 2009 & Direction 5.2 effective 3 Mar 2011 & Direction 5.9 effective 30 Sep 2013 & Direction 5.10 effective 14 April 2016)</p>	

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5.1 (Revoked 17 October 2017)		Not relevant.
5.2 Sydney Drinking Water Catchments		Not relevant.
5.3 Farmland of State and Regional Significance on the NSW Far North Coast		Not relevant.
5.4 Commercial and Retail Development along the Pacific Highway, North Coast		Not relevant.
5.5 (Revoked 18 June 2010)		Not relevant.
5.6 (Revoked 10 July 2008)		Not relevant.
5.7 (Revoked 10 July 2008)		Not relevant.
5.8 Second Sydney Airport: Badgerys Creek		Not relevant.
5.9 North West Rail Link Corridor Strategy		Not relevant.
5.10 Implementation of Regional Plans		Not relevant.
6. Local Plan Making	1 July 2009	
6.1 Approval and Referral Requirements		The PP will not contain provisions which require the concurrence, referral or consultation of other public authorities, nor identify any use as designated development.
6.2 Reserving Land for Public Purposes		Not relevant.
6.3 Site Specific Provisions		Not relevant.
7. Metropolitan Planning	1 February 2010	
7.1 Implementation of A Plan for Growing Sydney		Not relevant.
7.3 Parramatta Road Corridor Urban Transformation Strategy	9 December 2016	Any redevelopment of a property within the Parramatta Road Corridor that is identified on the CFI Map will be required to address flooding during assessment of the application.
7.4 Implementation of North West Priority Growth Area Land Use and Infrastructure Implementation Plan	15 May 2017	Not relevant.
7.5 Implementation of Greater Parramatta Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	25 July 2017	Not relevant.
7.6 Implementation of Wilton Priority Growth Area Interim Land Use and Infrastructure Implementation Plan	5 August 2017	Not relevant.

Section C – Environmental, Social and Economic Impact

7. *Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

No. There is no known critical habitat or threatened species, populations or ecological communities, or their habitats, which will be affected by the PP.

8. *Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?*

The PP is expected to reduce environmental impacts by mitigating against potential flooding of property.

9. *How has the planning proposal adequately addressed any social and economic effects?*

The PP is not expected to have any adverse social or economic effects. Council holds there to be social and economic benefits, particularly to the local community, as the PP will safeguard future development from potential flooding impacts.

Section D – State and Commonwealth Interests

10. *Is there adequate public infrastructure for the planning proposal?*

The PP is not expected to generate demand for any infrastructure or services.

11. *What are the views of State and Commonwealth authorities consulted in accordance with the gateway determination?*

The Gateway Determination will confirm and specify any consultation required with State and Commonwealth authorities on the PP.

Part 4 – Mapping

The PP seeks to include a clause within the BLEP Written Instrument which makes reference to the Consolidated Flood Identification Map. There would be no amendments to the BLEP maps.

Part 5 – Initial Community Consultation

Community consultation was undertaken as part of the four Draft Overland Flood Studies. This included the distribution of an information sheet and a questionnaire to gather information pertaining to the community's experience of flooding within the various catchments. The information sheet and questionnaire were distributed to properties affected by the preliminary 1:100 ARI extents. The results of the consultation were used to test the validity of the flood model in identifying flood affected properties. The following table shows the response rate for each catchment area.

Catchment	Response rate
Dobroyd Canal	6%
Cooks River	4%
Powells Creek	5%
Exile Bay-St Lukes-William Street	4%

The Gateway Determination will confirm and specify the community consultation that must be undertaken on the PP.

Part 6 – Project Timeline

Anticipated date of Gateway Determination	By end of March 2019
Anticipated timeframe for the completion of required technical information	End April 2019
Timeframe for government agency consultation	May 2019
Commencement and completion dates for the public exhibition period	Mid to late May 2019
Dates for public hearing	Not applicable
Timeframe for consideration of submissions	End July 2019
Timeframe for the consideration of a proposal post exhibition	End July 2019
Anticipated date RPA will make the plan (if delegated)	September 2019
Anticipated date RPA will forward to the department for notification (if delegated)	October 2019

Supporting Documentation

Appendix One

- Proposed Amendment to the BLEP

Appendix Two

- Delegation Checklist

Appendix Three

- Consolidated Flood Identification Map

Links to Supporting Material

- Burwood Local Planning Panel Meeting Agenda of 13 November 2018:
http://www.burwood.nsw.gov.au/verve/_resources/LPP_13112018_AGN_AT.pdf

- Burwood Local Planning Panel Meeting Minutes of 13 November 2018:
http://www.burwood.nsw.gov.au/verve/_resources/BLPP_13_November_Minutes.pdf
- Council Meeting Agenda of 26 June 2018 (including report to Council regarding PP to amend Clause 6.2(5) of the BLEP) is available on Council's website:
http://www.burwood.nsw.gov.au/verve/_resources/Agenda_-_26_June_2018_-_Council_Meeting.pdf
- Council Meeting Minutes of 26 June 2018 (including Council resolution regarding PP to amend Clause 6.2(5) of the BLEP) is available on Council's website:
http://www.burwood.nsw.gov.au/verve/_resources/Official_Ordinary_Council_Meeting_Minutes_26062018.pdf
- Landing page (including links to all Flood Studies) on Council's website:
http://www.burwood.nsw.gov.au/news_and_highlights_-_homepage/2018/find_out_more_about_the_overland_flood_studies.html

Appendix One

Proposed Amendment to the BLEP

The wording of the BLEP clause would be subject to negotiation with State agencies, however may comprise a clause generally as follows, or words to similar effect:

6.2 Flood planning

.....

(5) *In this clause:*

land at or below the flood planning level means land as identified on the Consolidated Flood Identification Map.

The wording of any BLEP provisions will be subject to liaison with, and possible revision by, the Parliamentary Counsel's Office.

Appendix Two

Delegation Checklist and Evaluation Criteria

Checklist for the review of a request for delegation of plan making functions to councils
Local Government Area:
Burwood.
Name of draft LEP:
Amendment to Clause 6.2(5) – Definition of Flood Planning Level.
Address of Land (if applicable):
Whole LGA.
Intent of draft LEP:
Amend the BLEP's definition of Flood Planning Level to reference the Consolidated Flood Identification Map.
Additional Supporting Points/Information:
Please refer to the PP.

ITEM NUMBER 14/19 - ATTACHMENT 1

Planning Proposal - Amendment to Clause 6.2(5) of the BLEP 2018 - Definition of Flood Planning Level

Evaluation criteria for the issuing of an Authorisation				
(NOTE - where the matter is identified as relevant and the requirement has not been met, council is attach information to explain why the matter has not been addressed)	Council response		Department assessment	
	Y/N	Not relevant	Agree	Not agree
Is the planning proposal consistent with the Standard Instrument Order, 2006?	Y*			
Does the planning proposal contain an adequate explanation of the intent, objectives, and intended outcome of the proposed amendment?	Y			
Are appropriate maps included to identify the location of the site and the intent of the amendment?	Y			
Does the planning proposal contain details related to proposed consultation?	Y			
Is the planning proposal compatible with an endorsed regional or sub-regional planning strategy or a local strategy endorsed by the Director-General?	Y			
Does the planning proposal adequately address any consistency with all relevant S117 Planning Directions?	Y			
Is the planning proposal consistent with all relevant State Environmental Planning Policies (SEPPs)?	Y			
Minor Mapping Error Amendments	Y/N			
Does the planning proposal seek to address a minor mapping error and contain all appropriate maps that clearly identify the error and the manner in which the error will be addressed?	N			
Heritage LEPs	Y/N			
Does the planning proposal seek to add or remove a local heritage item and is it supported by a strategy/study endorsed by the Heritage Office?	N			
Does the planning proposal include another form of endorsement or support from the Heritage Office if there is no supporting strategy/study?		N/A		
Does the planning proposal potentially impact on an item of State Heritage Significance and if so, have the views of the Heritage Office been obtained?		N/A		
Reclassifications	Y/N			
Is there an associated spot rezoning with the reclassification?		N/A		
If yes to the above, is the rezoning consistent with an endorsed Plan of Management (POM) or strategy?		N/A		
Is the planning proposal proposed to rectify an anomaly in a classification?		N/A		
Will the planning proposal be consistent with an adopted POM or other strategy related to the site?		N/A		
Will the draft LEP discharge any interests in public land under section 30 of the Local Government Act, 1993?		N/A		

* Council seeks to amend a definition within the Model Local Clauses for Standard Instrument LEPs on the basis that four Flood Studies have been conducted in accordance with the Floodplain Management Development Manual and Council has developed a CFI Map that better identifies affected land.

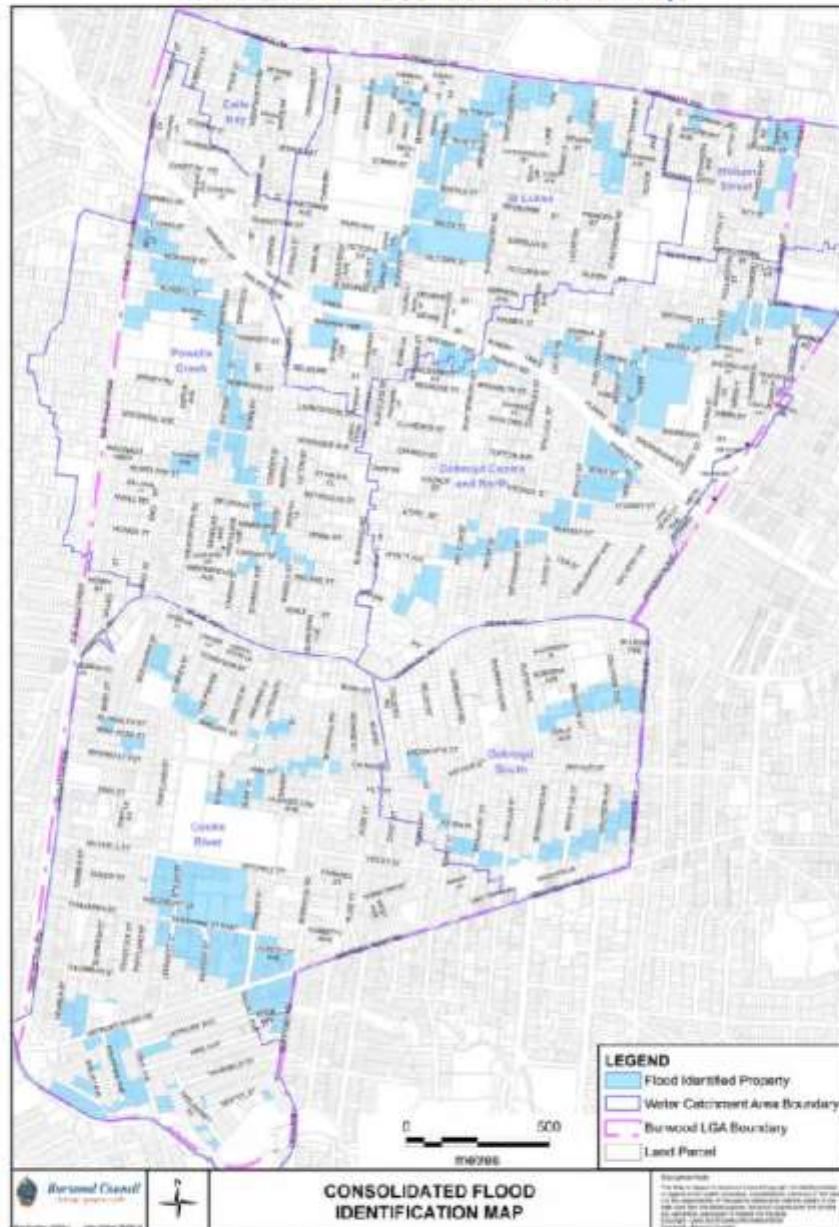
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Planning Proposal - Amendment to Clause 6.2(5) of the BLEP 2018 - Definition of Flood Planning Level

If so, has council identified all interests; whether any rights or interests will be extinguished; any trusts and covenants relevant to the site; and, included a copy of the title with the planning proposal?	N/A		
Has the council identified that it will exhibit the planning proposal in accordance with the department's Practice Note (PN 09-003) <i>Classification and reclassification of public land through a local environmental plan and Best Practice Guideline for LEPs and Council Land</i> ?	N/A		
Has council acknowledged in its planning proposal that a Public Hearing will be required and agreed to hold one as part of its documentation?	N/A		
Spot Rezoning	Y/N		
Will the proposal result in a loss of development potential for the site (ie reduced FSR or building height) that is not supported by an endorsed strategy?	N		
Is the rezoning intended to address an anomaly that has been identified following the conversion of a principal LEP into a Standard Instrument LEP format?	N		
Will the planning proposal deal with a previously deferred matter in an existing LEP and if so, does it provide enough information to explain how the issue that lead to the deferral has been addressed?	N		
If yes, does the planning proposal contain sufficient documented justification to enable the matter to proceed?	N/A		
Does the planning proposal create an exception to a mapped development standard?	N		
Section 73A matters			
Does the proposed instrument a. correct an obvious error in the principal instrument consisting of a misdescription, the inconsistent numbering of provisions, a wrong cross-reference, a spelling error, a grammatical mistake, the insertion of obviously missing words, the removal of obviously unnecessary words or a formatting error? b. address matters in the principal instrument that are of a consequential, transitional, machinery or other minor nature?; or c. deal with matters that do not warrant compliance with the conditions precedent for the making of the instrument because they will not have any significant adverse impact on the environment or adjoining land? (NOTE - the Minister (or Delegate) will need to form an Opinion under section 73(A)(1)(c) of the Act in order for a matter in this category to proceed).	N/A		
NOTES <ul style="list-style-type: none"> Where a council responds 'yes' or can demonstrate that the matter is 'not relevant', in most cases, the planning proposal will routinely be delegated to council to finalise as a matter of local planning significance. Endorsed strategy means a regional strategy, sub-regional strategy, or any other local strategic planning document that is endorsed by the Director-General of the department. 			

Appendix Three

Consolidated Flood Identification Map



(ITEM 15/19) INVESTIGATION OF POSSIBLE CHANGES TO THE DEFINITION OF FLOOR SPACE FOR DEVELOPMENT IN THE BURWOOD TOWN CENTRE

File No: 18/42544

REPORT BY DEPUTY GENERAL MANAGER LAND, INFRASTRUCTURE & ENVIRONMENT

Summary

The current definition of Gross Floor Area (GFA) under the Burwood Local Environmental Plan 2012 (BLEP), as used in GFA calculations for development in the Burwood Town Centre (BTC) has been reviewed, in consideration of the possible exclusion of the following in new developments:

- a. Hallways and walkways
- b. Facilities such as gyms, common or music rooms
- c. Car share parking spaces
- d. Common rooms
- e. Visitor parking

This report provides the outcome of the investigation into changing the definition of GFA and recommends that, in relation to car share parking spaces, that this issue be addressed through the review and amendment of the Burwood Development Control Plan (BDGP) rather than the BLEP.

Operational Plan Objective

5.1.3 - Encourage mixed use buildings – commercial and residential to maximise use of buildings in the Town Centre

Background

Council, at its meeting on 21 August 2018, considered a Mayoral Minute which raised concerns that the current GFA definition under the BLEP may impede the provision of beneficial facilities and services in new developments (particularly residential buildings) in the BTC. Under the current GFA definition, hallways and walkways in developments take up part of the allowable GFA, as do facilities such as music, study or common rooms, gyms and swimming pools and car share parking spaces.

Council resolved that the General Manager should investigate possible changes to the definition of GFA, so as to exclude from floor space calculations:

- Hallways and walkways
- Facilities in a building such as music, study or common rooms, a gym or a swimming pool
- Parking spaces for a car share scheme

At the same meeting Council also resolved that investigations be undertaken into monitoring the use of common rooms and visitor parking spaces in new developments, so as to ensure they are being used as they are intended.

Planning or Policy Implications

Current Definition of Gross Floor Area (GFA)

In the BLEP, GFA is defined as follows:

“...the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- a. *the area of a mezzanine*
- b. *habitable rooms in a basement or an attic*
- c. *any shop, auditorium, cinema, and the like, in a basement or attic*

but excludes:

- d. *any area for common vertical circulation, such as lifts and stairs*
- e. *any basement:*
 - (i) *storage*
 - (ii) *vehicular access, loading areas, garbage and services*
- f. *plant rooms, lift towers and other areas used exclusively for mechanical services or ducting*
- g. *car parking to meet any requirements of the consent authority (including access to that car parking)*
- h. *any space used for the loading or unloading of goods (including access to it)*
- i. *terraces and balconies with outer walls less than 1.4 metres high*
- j. *voids above a floor at the level of a storey or storey above."*

The definition is central to the determination of the Floor Space Ratio (FSR) of buildings on a site, and whether a development proposal complies with a maximum FSR.

Current Practice

Hallways and walkways

If hallways and walkways are enclosed by walls within a building they are counted as part of the GFA. Terraces and balconies that are largely open and enclosed by outer walls of less than 1.4 metres high are excluded.

If the hallways and walkways are "open to the elements", part of them is excluded from the GFA calculation. An example is a balustrade placed at the end of an internal corridor or hallway.

Facilities

Areas used as common rooms for study or music, or a gym or a swimming pool for residents of the building, if enclosed, will fall within the definition of GFA.

A gym or a swimming pool, if located within an unenclosed open space (for instance, outside at ground level or on a rooftop), is not counted as GFA.

Car share parking spaces

Car parking spaces are not counted as part of the GFA if they are provided to meet the requirements of the consent authority. In practice this means parking provided in compliance with the BDCP, or in compliance with the applicable State Environmental Planning Policy (SEPP), such as the Affordable Rental Housing SEPP, will be excluded from the GFA calculation.

Where parking spaces included in a development exceed the number required by the BDCP or the SEPP, the excess spaces are counted as part of the GFA.

Currently, neither the BDCP nor any of the SEPP policies require the provision of parking spaces for a car share scheme. Such parking spaces, if provided inside the building, would be counted as GFA.

Standard Instrument LEP

The BLEP is based on the Standard Instrument LEP issued by the State Government in 2006, with the objective of maintaining consistency in planning across all councils of NSW.

The Standard Instrument LEP allows variations to a limited extent in the selection of zones and clauses to be included in a council's LEP. In the main though, much of the Standard Instrument LEP, including the Dictionary, must be adopted and incorporated unchanged in a council's LEP.

The State Government may make changes to the Standard Instrument LEP. When a change is made, all councils' LEPs are updated automatically, thereby achieving efficiency and maintaining consistency.

Definitions in Dictionary

The Dictionary that defines key terms in the Standard Instrument LEP is in every council's LEP. Councils cannot alter, or add, any definitions in the Dictionary.

The Department of Planning and Environment has advised that councils may suggest changes to the Dictionary, but they must justify that an existing definition is not appropriate. If a new or revised definition is adopted for the Dictionary, it will apply to all NSW council LEPs. Meaning that, in relation to the Burwood Local Government Area (LGA), it would have to apply to all development proposals, not just development in the BTC.

In view of the above, it is not considered feasible to change the GFA definition in the BLEP.

Other Considerations

Hallways and walkways

Common circulation spaces are necessary inclusions in buildings to enable essential movement of people. They are provided for safety, amenity, ventilation and social interaction. As such they are integral elements of a building.

The existing definition of GFA already provides for some flexibility in respect of terraces and balconies with outer walls less than 1.4 metres high. In practice with development applications, where a hallway or walkway has a degree of openness rather than full enclosure, part of it would be excluded from the GFA calculation.

It is recommended that no further action be taken on this subject and that current practice under the Standard Instrument LEP continue.

Facilities

When a private music or study room is marked as provided in a dwelling of a residential development it is always included in the GFA calculation, as it may be used as, or converted to, a bedroom. If not included in the GFA calculation the proposed building could get considerably bigger in floor space and bulkier in built form.

Inclusion of communal facilities such as a common room, a gym and/or a swimming pool in a development may benefit the wellbeing of the residents in the development. Some developments may also include these facilities for marketing attractiveness. However, it is not a requirement of the Apartment Design Guide (ADG). The provision of such facilities could arguably affect the viability of other similar facilities provided on a commercial basis in the BTC or in the LGA.

As mentioned before, an area for a communal facility within a building, if enclosed, falls within the definition of GFA. If unenclosed, i.e. outside at ground level or on a rooftop, the area is not counted towards the GFA.

It is recommended that no further action be taken on this subject and that current practice under the Standard Instrument LEP continue.

Car Share Parking Spaces

The most straightforward way to remove car share parking spaces from the GFA would be to amend the BDCP to make it a requirement for developments to include one or more car parking spaces specifically for use by car share providers. This could be subject to criteria, such as developments being located in the BTC or the Strathfield Town Centre, involving more than a minimum number of dwellings, or a minimum commercial floor space.

Once the requirements are included in the BDCP, the car share parking spaces could be excluded from the GFA calculation. This may provide an incentive for the inclusion of car share spaces, or remove a current potential disincentive.

Should Council endorse this approach, the matter will be included in the next round of BDCP review and amendment.

Monitoring the Use of Common Rooms and Visitor Parking

Where buildings or developments currently include common rooms designated as swimming pools, gyms or similar purposes, generally it is left in the hands of the Owners Corporation to maintain those facilities and ensure their availability for use by building residents continues as intended in the consent conditions. There is no ongoing role for Council to inspect or audit compliance with the intended use, however, Council's Compliance Officers can respond to specific complaints, in particular where unauthorised or commercial use of such facilities is reported.

The same would apply to visitor parking spaces that are required in residential developments. Generally, Council would only investigate a complaint or an instance of visitors' car parking spaces being rented out on a commercial basis if the issue was brought to Council's attention.

Conclusion

Changing the GFA definition in the BLEP is not feasible due to the restrictions of the Standard Instrument LEP. Exclusion of car share parking spaces from GFA is possible by amending the BDCP and this can be considered in a future round of BDCP review.

Recommendation(s)

1. That Council notes the advice that no further action be taken regarding changing the definition of Gross Floor Area in the Burwood Local Environment Plan 2012, consistent with preliminary advice from NSW Department of Planning & Environment.
2. That the Burwood Development Control Plan be amended to include provisions requiring the supply of car share parking spaces for certain developments in the Burwood Town Centre and Strathfield Town Centre.
3. That the current practice of monitoring the use of common rooms and visitor parking spaces in response to complaints continue.

Attachments

There are no attachments for this report.

(ITEM 16/19) BUDDHIST VESAK DAY CELEBRATION, BURWOOD PARK

File No: 19/4112

REPORT BY DEPUTY GENERAL MANAGER CORPORATE, GOVERNANCE & COMMUNITY

Summary

The Chinese Buddhist Association of NSW Inc. has requested to hold a Buddhist Vesak Day Celebration event to celebrate the birth of Buddha in Burwood Park on Sunday, 19 May 2019.

The Organisation has also requested that Council assist with a donation to cover fees associated with the use of Burwood Park, including park hire fees, Council officers' costs and garbage removal costs.

Operational Plan Objective

1.4.3 Coordinate, facilitate and support inclusive cultural events and initiatives to celebrate community, diversity and cultural heritage

Background

Since 2010, Burwood Council has welcomed the Chinese Buddhist Association of NSW to Burwood Park for their annual celebrations of Buddha's Birthday. On each occasion, Council provided a donation covering relevant fees for park hire, structural fees, electricity usage, Council officer costs and garbage collection.

Council has received a proposal from the Chinese Buddhist Association of NSW Inc. for the 2019 event to once again be held in Burwood Park, on Sunday 19 May 2019. The event is proposed to commence at 9.00am and conclude at approximately 3.30pm in the area around the Memorial Arch.

The proposed program includes chanting, Dharma talk, ritual bows and parades, traditional singing and dancing, speeches from VIPs, vegetarian food stalls and arts and crafts stalls. The highlight of the event will be the bathing ceremony of baby Buddha.

The event is open to the public.

The organisers of the event have again approached Burwood Council, requesting monetary and in-kind support for their event.

Proposal

That Council consider the request to donate \$3,932.00 to the Chinese Buddhist Association of NSW Inc to cover the fees associated with using Burwood Park for their Buddhist Vesak Day Celebration event on Sunday 19 May 2019.

Consultation

Advice was sought from Council's Events Coordinator, Council's Parks Manager and officers to ascertain the community, financial and park impacts of the proposed event.

Planning or Policy Implications

The donation to the Chinese Buddhist Society of NSW amounts to \$3,932.00 and is above the Mayor's delegation of small donations. A Council resolution is required under Section 356(1) of the *Local Government Act 1993* in order to make this decision.

Financial Implications

The applicable fees as per Council's Schedule of Fees and Charges relating to this request for in-kind donation are included below:

Fee Category	Fee Amount	Amount	Payee	Total
Casual park hire	\$2,150.00	1000 people	Burwood Council	\$2,150.00
Administration fee	\$153.50	1	Burwood Council	\$153.50
Electricity supply (per day)	\$113.00	1	Burwood Council	\$113.00
Stalls fee	\$11.00	25	Burwood Council	\$275.00
Additional garbage bins	\$46.50	10	Burwood Council	\$465.00
Food/health inspection (2hrs)	\$232.50		Burwood Council	\$232.50
Ground staff	\$543.00	1	Burwood Council	\$543.00
			TOTAL	\$3,932.00

Bond Category	Bond Amount	Amount	Payee	Total
Casual park hire	\$4,080.00	1000 people	Chinese Buddhist Association of NSW Inc	\$4,080.00
			TOTAL	\$4,080.00

Please note:

The amount of \$3932.00 is to be funded within the Council Annual Donation Fund for events and initiatives adopted by Council in August 2018.

While Council can provide access to the underground three-phase power outlet, the Organisers will need to provide distributor boards, certified tested and tagged safety electrical cables for all stallholders and cable trays for all exposed electrical cables in public access areas.

The amount for casual park hire and garbage bins is based on Council Officers' observations at the last event in 2018 and in accordance with Council's Schedule of Fees and Charges.

Applicable bonds totalling \$4,080.00 will be required from the Chinese Buddhist Association of NSW Inc. This bond amount is refundable after post event inspection, on the condition that grounds are left in a satisfactory state by the event organisers.

Options

Council could opt to:

- Support the proposed event by donating \$3932.00, calculated as per fees listed above
- Refuse to make a donation
- Agree to make a partial donation and request that the Organisers cover the remaining charges.

Conclusion

For the past few years, Buddha's Birthday events have been welcomed by parts of the Burwood Community as a traditional cultural event and attracted a good number of visitors.

However, it is important to consider that repeated financial support could lead to a regular annual expectation from the Organisers that Burwood Council will donate funds to cover all fees related to their event.

Furthermore, Council will need to consider future requests from different community and cultural organisations to maintain a consistent approach.

Recommendation(s)

That Council donates \$3,932.00 from the Council Annual Donation Fund for Events and Initiatives, to the Chinese Buddhist Association of NSW Inc to cover fees associated with the use of Burwood Park for the Buddhist Vesak Day Celebration event to be held on Sunday, 19 May 2019.

Attachments

1 [↓](#) Buddha's Birthday 2019 - Event Proposal



新南威尔斯州华人佛教会/悉尼定慧寺

Chinese Buddhist Association of NSW Inc. /Ding Hui Monastery

Address: 3 Shelley St Campsie NSW 2212 Australia

Tel: (612) 9718 1611 Fax: (02) 9718 1611

E-mail: zhengyunshi@hotmail.com

Mr Bruce Macdonnell
General Manager
Burwood Council
Suite 1, Level 2,
1-17 Elsie Street,
BURWOOD NSW 2134
Email: council@burwood.nsw.gov.au

Dear Mr Macdonnell

Request support for the Buddhist Vesak Day Celebration Event

We are writing to request for the support of Buddhist Vesak Day Celebration event as part of the Burwood Council's Annual Easter Program in April/May, as this event was successfully held at Burwood Park since 2010 and have received many positive feedbacks from the community.

The Buddhist Vesak Day event is to commemorate Buddha's birth, enlightenment, and death. In 1999, the United Nation recognized Vesak Day and encouraged Buddhist organizations and communities to celebrate the Day of Vesak worldwide.

We have co-organised the Buddhist Vesak Day event annually. In 2018, 7 buddhist organisations were participated in this event at Burwood Park. They were from different cultural backgrounds and traditions including: Chinese; Korean; Tibetan and Sri Lankan.

The Vesak Day Celebration is a distinctive community engagement event to promote various cultures/traditions and is also a family day for the community to enjoy. It is a whole day event from 9:00am to 3:30pm. The activities including: chanting; Dharma talk; the bathing ceremony of the baby Buddha; ritual bows and parades; traditional singing and dancing. In addition, there are various vegetarian food, art and craft stalls erected for general public to participate.



新南威尔斯州华人佛教会/悉尼定慧寺

Chinese Buddhist Association of NSW Inc. /Ding Hui Monastery

Address: 3 Shelley St Campsie NSW 2212 Australia

Tel: (612) 9718 1811 Fax: (02) 9718 1811

E-mail: zhengyunshi@hotmail.com

We would appreciate Burwood Council considering the following:

- 1) adding the Buddhist Vesak Day Celebration event to the **Burwood Council's Annual Easter Program**, as the community can enjoy the event annually;
- 2) reserving the Burwood Park for our perpetual Buddhist Vesak Day Celebration event that will be held on the **3rd Sunday of May annually**;
- 3) confirming the booking of **Burwood Park on Sunday 19th May 2019** for our 2019 Buddhist Vesak Day Celebration event;
- 4) **waiving the associated fees** including mobile toilets, as we are non-profit charitable organisations and this event is for the community.

In the past years, we have complied with all the legislative and Council's requirements including the Guidelines for Food Handling of Burwood Council. We hope to run this event successfully.

We highly appreciate your support to our Buddhist Vesak Day Celebration event at Burwood Park. Kindly consider the above requests.

Should you have any queries, please contact Sylvia Chan via email: chanlsyl@yahoo.com.au and cc zhengyunshi@hotmail.com

Yours sincerely,

Ven. Zheng Yun Shi

President of Chinese Buddhist Association of NSW Inc.

(ITEM 17/19) UPDATE ON WOODSTOCK REACTIVATION PLAN

File No: 19/5943

REPORT BY DEPUTY GENERAL MANAGER CORPORATE, GOVERNANCE & COMMUNITY

Summary

The Woodstock Reactivation Plan is aimed at improving the long term functionality and activation of the Woodstock Community Centre and Park (Woodstock). The Plan is submitted to Council for formal adoption and to extend the trial period of the Council initiatives.

Operational Plan Objective

1.1.1 Provide a diverse range of strategies and initiatives that meet the needs of the community

Background

The Woodstock Reactivation Plan was tabled at the 26 June 2018 Council Meeting and placed on public exhibition for 28 days between 28 July 2018 and 20 August 2018. At the same meeting Council approved the trial of Weekend Markets, Pop Up food events and the expansion of Mobile Play Van at Woodstock over a six month period to gauge interest from the community and providers.

Minor upgrades to the Woodstock Community Centre were completed including the installation of stainless steel sinks to be utilised for the Arts and Crafts programs.

Increase use of Woodstock Community Centre and Have A Go Programs

Several of the Council 'Have a Go' programs have been relocated to Woodstock or are scheduled to be moved within the next term. This includes the drawing and sketching workshop led by one of the finalists from the inaugural Burwood Art Prize. Additional programs will be added to the catalogue of activities with consideration of the outcomes of the Woodstock Reactivation Survey; currently Council Officers are investigating suitable options for cooking and music classes. A film festival, focusing on multicultural films, is scheduled to be held in April at Woodstock in collaboration with a food market.

Expanding Mobile Play Van

For school terms three and four of 2018 Council's Mobile Play Van service was rolled out on a trial basis into two additional parks, Woodstock Park on Monday mornings and Wangal Park in Croydon on Tuesday mornings.

The trial was considered a success with an average of 14 families attending the service at Woodstock Park and 18 families attending at Wangal Park. 83% of those using the service on the trial days came from the Burwood Local Government Area and 74% of families who attended the Monday service and 83% of families who attended on Tuesdays attended only on those days, meaning they did not use the service at other locations. This data analysis fits the results of a previous survey undertaken, prior to the commencement of the trial, which showed a majority of parents and carers who use the service walk to and from the parks the Play Van is operating from.

Additionally the results of the Woodstock Reactivation survey indicated that the Mobile Play Van was one of the preferred activities requested at Woodstock, with 50% of people ranking it in their top 3 preferences.

The service has continued in its expanded format for term one in 2019 and numbers of attendees remain stable. Participants of the service have also indicated to staff that they now use Woodstock and Wangal Parks for other recreational purposes which they had not done previously.

Markets

Council entered into a partnership agreement with an event organiser to run two trial Artisan Markets which took place on 11 November 2018 and 10 February 2019. The first market utilised the ground floor of Woodstock Community Centre and Park, with a total of 61 stall holders including homeware, jewellery, artwork, photography, beauty, clothing, food and beverage. Attendance was estimated at 1,200 throughout the day, with the morning period attracting a larger number of people.

The number of stalls for the second market increased to 74 and this was mainly facilitated with the addition of the Fitzroy Hall as well as utilising the courtyard between the two facilities. Several beautification and maintenance tasks were carried out by Council to facilitate this increased offering. Attendance was estimated at 1,700 throughout the day, with patrons spending a longer time on site. The increased attendance can be attributed in part to advertising commencing earlier prior to the second event, including a 5m banner in Burwood Park, and publication on events websites such as Weekend Notes.

Council created a survey specifically for the Woodstock Artisan markets to obtain insightful feedback from the attendees at the event. The feedback was overwhelmingly positive from both customers and stall holders with 80% of people surveyed responding they enjoyed the market 'Very Much' and 19% responding 'Quite a lot'. There was a lot of praise for the venue, accessibility, organisation of the event, variety of stalls, music and atmosphere. Of the people surveyed 100% responded they would return to future Artisan Markets at Woodstock.

A meeting was conducted following the market and it was possible to notice a few trends emerging:

- Low-to-mid cost goods (\$5 - \$60) sold more than expensive items, in contrast to some other markets she oversees
- Popular items included essential oils, children's fashion and pet-related items
- Less popular items included ceramics
- Facebook advertising was not as strong as anticipated, with the Inner West Courier, Weekend Notes and flyers proving to be useful advertising outlets.

The second market initiative also involved a fundraiser activity by St Paul's Church, who hosted a high tea event to collect funds for the homeless assistance initiatives they regularly run from the church.

Woodstock Park Capital Works

The Draft Woodstock Capital Works Master Plan was exhibited between 28 July 2018 and 20 August 2018. An exhibition notice was published in the Inner West Courier. Exhibited material was made available at Council's Customer Service Centre and on Council's website.

In total, 2 submissions have been received.

Submissions

The comments made in the submissions and comments of Council Officers are as follows:

Submission	Council Comment
<i>Beautification</i> <ul style="list-style-type: none"> ▪ Install interpretation panels to tell the story of Woodstock and grounds at main entry points. ▪ Install "Welcome to Woodstock" 	<ul style="list-style-type: none"> ▪ It is Council's intention to upgrade the Duff Street entrance and install new bollards, interpretive signage and provide architectural lighting of the trees in the entrance area.

Submission	Council Comment
<p>signage</p> <ul style="list-style-type: none"> ▪ Lighting on trees should be limited to architectural lighting and not fairy lighting. ▪ The use of multi-coloured lighting as seen on the palm trees in Burwood Park is not acceptable or supported by adjoining residents on Woodstock grounds. 	<ul style="list-style-type: none"> ▪ The Plan includes the installation of “Welcome to Woodstock” and interpretive signage at Fitzroy Street entrance.
<ul style="list-style-type: none"> ▪ The proposed weather proof awning of western side of café is considered to negatively detract from the setting of the Woodstock Community Centre and is not supported. Consider the use of a narrower retractable awning instead. 	<ul style="list-style-type: none"> ▪ The community comments were noted and will be considered when implementing the particular upgrade.
<ul style="list-style-type: none"> ▪ The table tennis table gets a lot of use on the weekend. 	<ul style="list-style-type: none"> ▪ It is recommended that the table tennis table be relocated into the new playground area
<ul style="list-style-type: none"> ▪ The slide and swing set, plus the children’s play area get extensive use over the weekends. Could the large swing and swing set be relocated so that all the children’s play equipment is located together 	<ul style="list-style-type: none"> ▪ The Community comments have been noted and will be considered as part of the next review for the area.

Other comments (such as condition of fences or pruning of trees) were raised as maintenance issues and will be addressed as part of Council’s ongoing maintenance program.

Proposal

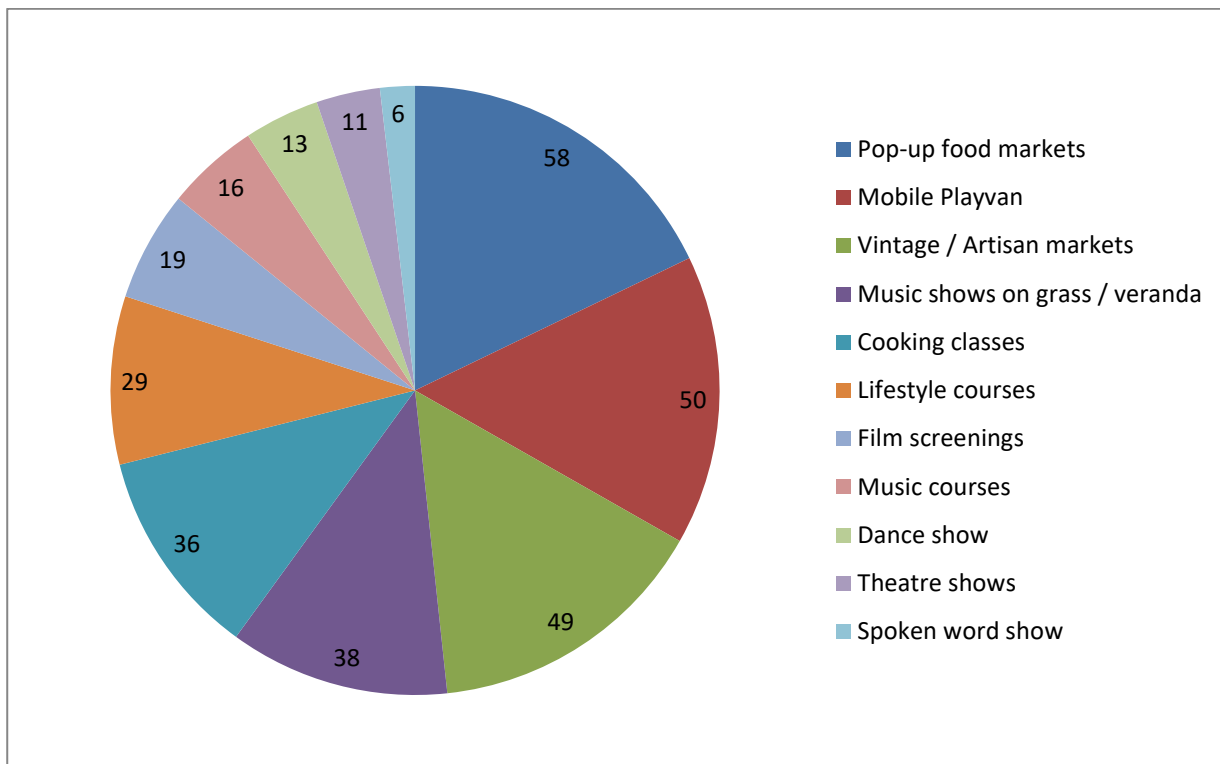
In relation to the infrastructure improvements, it is now recommended that Council adopt the final Capital Works Master Plan drawing for Woodstock.

In relation to the Woodstock Reactivation activities, whilst the feedback has been incredibly positive, not all of the initiatives have been tested within the allocated timeframe. It is recommended that the trial period for the Pop-up events, Markets and Mobile Play Van be extended to enable Council to analyse and evaluate the initiatives, and also offer the required level of support for their long-term success.

Consultation

Council distributed a Woodstock Reactivation survey to a number of relevant stakeholders, including residents, not for profit organisations, community, seniors and youth groups to determine specific requirements and preferences for future activities and programs at Woodstock.

When asked to rank the top three activities for Council to explore in the future the following results were captured, noting that Artisan markets, Pop-up food events and Mobile Play Van were ranked in the top three.



Planning or Policy Implications

There are no planning or policy implications.

Financial Implications

The Mobile Play Van is funded in the 2018-2019 and 2019-2020 operational budget. There are no financial implications for the markets or pop up food events as all on cost expenses will be passed onto the event organiser.

Conclusion

The Woodstock Reactivation Plan requires a multifaceted approach including community and cultural initiatives, as well as continued engagement with the community and user groups, to determine the suitability of future activities at Woodstock.

Recommendation(s)

1. That Council adopt the final Capital Works Master Plan drawing for Woodstock.
2. That Council extends the trial of Mobile Play Van in its current format until the end of term two, 30 June 2020.
3. That Council extends the trial of Weekend Markets at Woodstock until 31 December 2019 to gauge interest from the community and providers.
4. That Council extends the trial of "Pop Up" food events at Woodstock until 31 December 2019 to gauge interest from the community and providers.

Attachments

- 1 [LA 131 Draft Woodstock Proposed Capital Works Master Plan](#)



(ITEM 18/19) ADOPTION - REVISED HIRE OF COMMUNITY FACILITIES POLICY

File No: 19/7095

REPORT BY DEPUTY GENERAL MANAGER CORPORATE, GOVERNANCE & COMMUNITY

Summary

Burwood Council owns and operates facilities which are available for use and hire by the community. The Hire of Community Facilities Policy provides guidance for staff and potential hirers to assess the grounds for Council awarding concessional hire to applicants and establishes common guidelines for the usage of Council facilities.

Compliance with the Policy ensures that there is flexibility and an opportunity for individuals, groups and organisations to be able to access the premises for various social, cultural, recreational and leisure activities that benefit the community.

The Policy has been reviewed to improve accessibility by senior groups and local community groups and is now presented for review and approval.

Operational Plan Objective

1.1.4 Provide initiatives and facilities that encourage community participation and promote a healthy and harmonious lifestyle

Background

The Policy is required to provide protection of Council assets and ensure the equitable use of the facilities by the community. The current policy was adopted by Council on 21 April 2015. In accordance with Council's Corporate Policy Review Practice the policy has been reviewed to include current legislation. In addition, in response to a Mayoral Minute of 21 August 2018 (MM 16/18) the application of community facilities concessions and relevant criteria for Burwood Community Groups and Seniors was also included in the review.

Proposal

The Policy has been reviewed and updated to include the following:

- The assessment threshold for community groups has been reduced from 90% to 65% of participants required to be from the LGA.
- The assessment threshold for seniors groups has been reduced from 90% to 65% of participants who are required to be over the age of 60, with evidence provided.
- A maximum charge of \$10 per participant per session for seniors and Burwood Community groups has been introduced. This is also in line with Council's current Have A Go programs, operated by external facilitators on behalf of Council.
- Hirers will only be required to submit their supporting evidence on an annual basis, to ascertain their eligibility for a concession discount and ensure they are still valid.
- Council has the right to refuse an application if it becomes aware that the venue is not being used for the agreed time and purpose specified on the application.
- The number of participants must be at least 50% of the room's maximum capacity when available.

Consultation

The Policy was distributed to internal stakeholders for comment; all comments have been included, approved by the General Manager and endorsed by Council's Policy, Corporate Practice and Procedures Panel.

Planning or Policy Implications

Once adopted by the Council the Policy will be:

- Published on Council's website
- Council Officers will be advised via email
- Current hirers will be advised via email

Financial Implications

There will be financial implications with the proposed changes to the community concession criteria, as a greater number of groups will be entitled to reduced hire rates. However, these are predicted to be minor in value.

Conclusion

The Community Facilities Policy formalises the terms and conditions for hiring the facilities and outlines the hirers responsibilities to protect Council's assets.

Recommendation(s)

That Council adopts the revised Hire of Community Facility Policy.

Attachments

1 [↓](#) Revised - Hire of Community Facilities Policy



Burwood Council

heritage ▪ progress ▪ pride

REVISED - HIRE OF COMMUNITY FACILITIES - INCLUDING TERMS AND CONDITIONS

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Public Document
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1. Purpose

Burwood Council owns and manages a number of venues, facilities and meeting rooms which are available for hire for commercial, community and private purposes.

This policy ensures:

- the equitable use of community facilities by Burwood Council residents and ratepayers
- there are opportunities for individuals or groups to access facilities
- each centre has a balance of social and community functions
- that approved bookings are available to the Hirer at the times approved by Council
- that there is a clear process and criteria in place for the consideration of applications for fee reduction for the hire of Council facilities.

2. Scope

This policy is applicable to Council Officers, government agencies, commercial and community members as individuals, groups and/or organisations, applying to hire Council venues and facilities.

3. Definitions

Casual Hirer - a person, group or organisation that hires a Council facility less than twelve times per calendar year.

Regular Hirer - a person, group or organisation that hires a Council facility more than twelve times per calendar year.

Community Centre/Venue/Facility – is a location available for hire by Burwood Council where people can gather for group activities, social support, public information and private functions.

Hirer/Applicant – is the person responsible for entering into an agreement where a payment is made for the temporary use of goods or property owned by Council.

4. Facilities for Hire

This policy applies to all Council owned community facilities currently available for periodic hire. It does not apply to properties that are leased from Council, and for which contractual lease agreements have been established. The Fitzroy Hall, Burwood Community Hub, Woodstock and Burwood Park Community Centres are reserved for casual bookings every Saturday between 12pm and 12am. Council determines which properties are suitable and the periods available for hire.

For more information on the venues available for hire refer to the venue information sheets.

The properties available for hire are:

Burwood Park Community Centre – 2B Comer Street Burwood

Permissible uses – Dance/Exercise/Fitness, Exhibitions/Events, Meetings/Seminars/Workshops, Art/Craft Activities and Private Functions.

Burwood Park Pavilion – Burwood Park

Permissible uses – Dance/Exercise/Fitness, Exhibitions/Events and Performances

Council Chambers and Meeting Rooms – Suite 1, Level 2, 1-17 Elsie Street Burwood

Permissible uses – Meetings/Seminars/Workshops

Woodstock Community Centre – 22 Church Street Burwood

Permissible uses – Meetings/Seminars/Workshops, Gentle Exercise (i.e. yoga, tai chi, etc), Educational Programs, Selected Art/Craft Activities, Exhibitions/Events, Performances and Private Functions.

Fitzroy Hall – 22 Church Street Burwood – Entry via Fitzroy Street

Permissible uses – Dance/Exercise/Fitness, Meetings/Seminars/Workshops, Exhibitions/Events, Performances, Art/Craft Activities and Private Functions.

George Street Centre – George Street Burwood

Permissible uses – Dance/Exercise/Fitness, Meetings/Seminars/Workshops, Art/Craft Activities, Worship Services, Performances and Private Functions.

Burwood Community Hub Meeting Rooms – 2 Conder Street Burwood

Permissible uses – Meetings/Seminars/Workshops, Selected Art/Craft Activities, Conventions, Performances, Exhibitions and Selected Private Functions.

5. Hirer Categories and Concessions

The Hirer categories have been established to ensure Council accommodates a diverse range of activities and users that meet the needs and interests of the community. The community facilities concession application provides a transparent and accountable process for determining the rate charged for each Hirer.

There are three Hirer categories:

- Category A Commercial, Business, Government Agencies and Private Hirers
- Category B Non Profit Organisations
- Category C Seniors Groups and Burwood Community Groups

To be eligible to receive a concession under Categories B and C, Hirers must complete and submit a Concession Application Form and supply supporting documentation including the organisations most recent audited financial statement.

Note: The submission of an application does not guarantee approval of a concession rate. Each application will be assessed on merit and the applicant informed accordingly.

Category A – Commercial, Business, Government Agencies and Private Hirers

Full standard fees are applied to this category.

Types of Use – Seminars, conventions, trade fairs, product launches, private functions, meetings and all activities generating income for profit.

Examples of Hirers in this category are:

- Groups not defined as not for profit or providing a local community benefit.
- Hirers for private functions including and not limited to wedding receptions, parties.
- State, Federal and Local Government (except where Burwood Council is the user or sponsor of an event).
- Commercial organisations for the purpose of conferences and seminars.

Category B – Non Profit Organisations

Groups or organisations must be able to demonstrate that they meet one of the following criteria:*

- are an incorporated association under the *NSW Associations Incorporation Act 1984*
- registered under the *Charitable Fundraising Act 1991*

Community Facilities Policy

- all funds of the group are used to achieve the organisation's objectives and are not distributed to members

Council will also require the following documentation for regular hire applications:

- Annual audited report including financial statements
- Funding agreements, including funds received from the government to support the costs of the organisations operation

Examples of Hirers in this category are:

- Schools, registered charities, incorporated organisations, religious/spiritual groups, clubs/leisure/education/amateur sporting/lifestyles activities (run by volunteers).

Category C

Burwood Community Groups

Consideration of a community hire concession fee is based on the following:

- Evidence of community, charitable or non-profit status (provide as much supporting documentation to support the claim).
- The proposed use of the facility provides service to the local community of the Burwood Local Government Area (LGA) and a minimum of 65% of participants must be residents of Burwood LGA. Council requires a list of participants and addresses as supporting documentation.
- Applicants must specify the purpose of the hire and benefit to the community for a community concession.
- The number of participants must be at least 50% of the rooms maximum capacity.

Examples of Hirers in this category are non-funded, unincorporated community groups, self-help groups or similar types of groups that undertake fundraising.

Hirers in this category may only charge a maximum of \$10.00 per participant, per session.

Hirers in this category must submit their supporting evidence on an annual basis, to ascertain their eligibility for a discount.

Seniors Groups

Seniors groups are able to apply for a concession if a minimum of 65% of participants are over the age of 60 and must be residents of Burwood LGA. Either drivers' licences or seniors' cards are to be provided to Council as supporting documentation.

The number of participants must be at least 50% of the room capacity.

Hirers in this category may only charge a maximum of \$10.00 per participant, per session.

Hirers in this category must submit their supporting evidence on an annual basis, to ascertain their eligibility for a discount.

Hire costs are listed in the current Burwood Council Schedule of Fees and Charges and they are reviewed on annual basis (see online at www.burwood.nsw.gov.au).

6. General Conditions

Bookings and Payment of Fees

Community Facilities Policy

Booking dates are available by calendar year, all booking requests from July to December will be accepted as tentative until the annual Schedule of Fees and Charges are adopted by Council.

Venues are not available for hire during Council's Christmas to New Year shutdown period as scheduled maintenance is performed at each of the venues in accordance with Council's Property Maintenance Program.

Bookings will only be confirmed on receipt of a completed application, a copy of public liability insurance (where applicable), payment of hire fee and bonds.

Payments can be made in person at Council Chambers, by mail or on Council's website using the invoice number issued by Council as the reference. If paying by cheque, please mail at least 14 days prior to your booking date.

Council will generally not approve applications for use of multiple venues simultaneously on a regular basis.

Casual Hirer is required to pay the bond to confirm booking with the remaining amount owing to be paid one week prior to the booking date.

Regular Hirer is required to pay the hire fee for the first month of bookings in advance. Council will then provide the Hirer with monthly invoices.

Exemption of Fees All events where Burwood Council is the user or sponsor of the event are exempt from applicable fees.

Bonds

The following bonds will apply to the hiring of Community Centres and venues:

- **Security Bond** - the Council requires a security bond from all Hirers booking community facilities.
- **Swipe Card Bond** – a swipe card is required to gain access to the venues and a bond is required on collection
- **Alcohol Bond** – if alcohol is being served an alcohol bond is required in addition to the security bond.
- **Audio Visual Bond** – an audio visual (AV) bond is required when using the equipment in the Fitzroy Hall or Community Hub. Computer and cables not supplied by Council.
- **Kitchen Bond** – is required when using the commercial kitchen or when the Hirer is using catering services.

All of the bond types may be retained by Council if the Hirer breaches the terms and conditions depending on the nature of the breach, including but not limited to cleaning, damage, lost/stolen property, outstanding invoices; after hours call outs as a result of Hirer's negligence, venues not locked and exceeding the hiring time.

The Hirer is responsible for meeting the cost of any property damage caused as a result of activities of the applicant (Hirer) and/or the Hirer's contractors, guests and any other related party.

These costs will be deducted from the bond unless other arrangements are made. If the loss or repair costs for the damage incurred are greater than the bond, then the Hirer must pay the outstanding balance or any differences.

Regular Hirers can apply to have their security bond refunded by notifying Council in writing that they are terminating their use of the venue. Casual Hirers will have the bond refunded after

Community Facilities Policy

inspection has been completed and pending any outstanding costs. Bonds will only be refunded to the person/organisation listed on the receipt/ bond form by cheque within 30 days.

Period of Hire

The minimum booking time for hire of a Council venue is two hours. A venue is available to a Hirer between the commencement and finish times of the booking. Hirers must include time for setting up, packing up and cleaning within the booked time. Where the venue is used beyond the period of hire (breaching terms and conditions), the Hirer will be charged for the additional use. The charge will be deducted from any bond at the standard additional hourly rate. Only those persons cleaning up after a function are permitted to remain in the venue after midnight but must notify Council in writing during business hours prior to the booking if this may occur. If Council is not notified prior and the alarm is activated, the Hirer will be responsible for any after hour's costs incurred by Council. All persons leaving the centres are to leave quietly and in an orderly manner.

Right to Refuse, Cancel or Add Conditions

Council reserves the right to refuse an application for hire, or to cancel any reservation already made and to refund hire and bond payments.

Council will endeavour to provide reasonable notice when a booking is cancelled. Council may cancel a booking if:

- Council becomes aware that any event, goods or service proposed by the Hirer is/are objectionable, dangerous, prohibited by law, pose a safety threat, or inappropriate impact on local residents
- The venue is required for Council functions or Local Government, State or Federal elections
- The hire fees and/or bond have not been paid
- Maintenance or repairs are being carried out on the venue
- Any other unforeseeable event or situation that may render the venue/facility unfit or unavailable for use
- If your activity is not consistent with Council values
- Council becomes aware that the venue is not being used for the agreed time and purpose specified on the application

Council shall not be liable in any way for any loss or damage or otherwise in consequence of the exercise of this right.

Council may request **or apply** any of the following conditions:

- Evacuation plan
- Security guards to monitor private functions/parties
- Additional security bonds based on the nature of the event
- A liquor licence and/or a person with a Responsible Service of Alcohol licence at the function
- Hirer to notify Burwood Local Police
- Cleaning fees
- Room set up fee

Public Liability Insurance

Council's Public Liability Insurance covers Casual Hirers of Council venues only. The Council Public Liability Insurance Policy does not cover Hirers who are Incorporated Bodies, Sporting Clubs or Associations or Hirers using Council venues for a total of 12 days or more over a 12 month period. These groups should obtain their own Public Liability Insurance, which can be obtained from any insurance company.

The Hirers who are not qualified to be covered by Council's Casual Hirers Insurance Policy are required to obtain Public Liability Insurance in the amount of \$20,000,000 for the duration of the hiring and a copy is to be provided with the Application.

Community Facilities Policy

If public liability insurance has been cancelled or altered by the Hirer or their insurer prior to an event, Council must be notified immediately and any approved application may be deemed not valid. Alternatively if any documentation changes status from the time of application to the day of the event, Council reserves the right to terminate the event and not reimburse any fees paid for the hire.

Release and Indemnity**Release**

The Hirer unconditionally releases Council from all claims, suits, demands, actions or proceedings (whether at law, in equity or arising under any statute) arising out of or in connection with an act, default or omission of Hirer or any of Hirer's Agents. The Hirer agrees not to sue or make any claim or demand against Council in respect of matters covered by this release.

Indemnity

The Hirer hereby grants the Council an indemnity from and against all actions, claims, costs, losses, expenses and damages (including the costs of defending or settling any action or claim) in respect of:

- Loss, loss of use, or damage to property of Council resulting from or by reason of anything done or omitted to be done by Hirer arising out of Hirer's activities undertaken at or near Council's facility during the hiring period.
- Personal injury (including death) or illness to any person or loss of use, or damage to any property resulting from or by reason of anything done or omitted to be done by Hirer arising out of Hirer's activities undertaken at or near Council's facility during the hiring period.

Your liability to indemnify Council is reduced proportionally to the extent that a negligent act or omission of Council or its employees has contributed to the injury, damage or loss.

The Hirer shall not wilfully alter, tamper, or render void any insurance policy or documentation submitted to Council.

Programs/Activities Involving Children

Individuals, Groups and Organisations who hire or lease Council venues or facilities for activities that involve children under 18 years are reminded of the requirements of the *Child Protection (Working with Children) Act 2012*.

In NSW, The Office of the Children's Guardian was established by the *Children and Young Persons (Care and Protection) Act 1998*. The Guardian administers the *Child Protection (Working with Children) Act 2012* to ensure children's safety and that anyone working or volunteering with children must undertake a working with children clearance. All employers (including employers of volunteers and others) must comply with the mandatory guidelines available from the All employers (including employers of volunteers and others) must comply with the mandatory guidelines available from the Office of the Advocate for Children and Young People and also available on their website <http://www.acyp.nsw.gov.au>.

These guidelines contain forms including declarations and consent which must be made by prospective employees.

7. Terms and Conditions for Use of Council Facilities

Cancellations and Booking Transfers

All changes or cancellations to the hire of the venue must be in writing to Council. Hirer cancellation of less than seven days prior to the date of hire incurs a penalty of 50% of the cost. Hirer cancellation of less than 48 hours from the date of the event incurs a penalty of 100% of hire costs regardless as to whether payment has been received for the booking.

Security Access Swipe Card

The Hirer will require a security swipe card to access the venue; therefore, a refundable swipe card bond is required. The swipe card must be collected the week of the booking, from Burwood Council's Customer Service Centre located at Suite 1, Level 2, 1-17 Elsie Street Burwood between 8.30am – 4.30pm Monday to Friday. If a swipe card is not collected during the above mention times, entry into the venue will not be available. Hirers are responsible for locking up the venue after the event.

All swipe cards provided to casual Hirers must be returned the next working day after the hire. Regular Hirers are required to return the swipe card if they do not have a booking within a two month period. If the card is not returned within this timeframe the card will be deactivated.

Failure to return the key or swipe card will result in the bond being forfeited.

Smoking

Smoking is not permitted in any Council building under the *Smoke Free Environment Act 2000*. Additionally on the 24 November 2009, Council introduced a smoke free policy and it is no longer acceptable to smoke within 10 metres of Council owned building and facilities.

Alcohol

Hirers intending to sell alcohol are responsible for obtaining the necessary liquor permit/license from the NSW Office of Liquor, Gaming and Racing (www.olgr.nsw.gov.au). Hirers should note that the application period to OLGR is 28 days prior to an event. A copy of the licence must be supplied to Council and displayed at the venue during the function.

If no alcohol will be served or sold, a Statutory Declaration must be signed stating that no alcohol will be consumed at the function and submitted with the Application.

Burwood Council has established Woodstock Park and Burwood Park as Alcohol Prohibited Areas from 6pm – 8am seven days a week. Please refer to Burwood Council's Prohibition of Alcohol in Public Spaces Policy for further information which is available on Council's website www.burwood.nsw.gov.au.

Noise Restrictions

Hirers must ensure that all amplified sound, including but not limiting to music and PA systems cease by venue closing time. Noise levels must be kept to an acceptable level in respect of neighbouring residents. Any breach of the above conditions may disqualify a group/organisation from future use of Council's community facilities.

In addition, Hirers must be aware at all times of the impact that their activities may have on other users of the community centre/facility/park. Further, all Hirers must ensure that their patrons leave the community centre/facility/park as soon as practicable after the completion of their use to minimise the disruption to other patrons and the public.

Hirer's responsibilities

The Hirer must be a responsible adult over the age of 21. Proof of age may be requested at the time of submission of the application. The Hirer must obey all laws, rules, regulation and ordinances. It is the Hirer's responsibility to ascertain which laws, rules, regulations or ordinances may be applicable to the function and comply with these provisions.

When using one of Council's venues the user must:

Community Facilities Policy

- Ensure they understand access procedures into the building prior to the hire. It is the Hirer's responsibility to organise keys and security passes at least one working day ahead of the booking time.
- Report any problems, maintenance issues or changes to booking details prior to each use to Council's Customer Service Centre on 9911 9911.
- The venue must be left in a clean and tidy condition and locked on the Hirer's departure as listed in the cleaning and securing terms and conditions.
- As most of Council's properties are multifunctional, Hirers may only use the area of the premises for which they have paid for or additional fees will be charged.
- Ensure the venue is promptly and wholly vacated at the expiry of the booked time. Where use of the venue exceeds the time paid for, the Hirer will be responsible for the payment of additional fees in hourly blocks as set out in Council's Schedule of Fees and Charges together with any additional overtime or other incidental costs incurred by Council.
- Ensure that noise levels are kept to an acceptable level in respect to neighbouring residence.
- Additional charges will be incurred if furniture is not stored correctly after use.
- Venue space capacities must not be exceeded. Hirers must familiarise themselves with the facility evacuation procedures in case of an emergency and ensure all corridors and exits are kept clear and without hindrance. Council may undertake audits to ensure compliance.
- Should there be an accident or injury arising through the Hirer's use, the Hirer must inform Council, in writing, on the first working day after the incident.
- Do not sublet the venue, with the exception of Catering Companies approved by Council. Council venues may not be used for the sale of products for profit or for advertising purposes, unless prior written approval has been provided by Council.
- Bring their own whiteboard markers, computer and cables to connect to the AV projector, crockery, cutlery, glasses, jugs, table clothes, serving dishes, tea towels, sponges, washing up liquid, spray and wipe, extra garbage bags and anything else they may require.

Hirer Management Responsibilities during a Function

The Hirer is required to be present for the duration of the function and is responsible for the maintenance of order during the approved booking time. This includes public safety, prevention of damage to the venue, emergency evacuation, noise levels and returning the venue to its permanent layout.

The Hirer is responsible for:

- the conduct of all guest/patrons at their function/event
- for the maintenance and preservation of good and proper order during the period of hire
- any damage caused by people or guests attending the function
- ensuring that noise levels are kept to an acceptable level in respect to neighbouring residents, as indicated by Council staff or by visual indication from a calibrated sound meter.

Should a Council representative be called to an event:

- The Hirer shall obey all reasonable directions of the responsible Council representative during the period of hire
- The responsible Council representative shall have complete control over all means of entry and exit and may close the entrance doors and/or refuse permission to any person or persons
- A Council representative may request to produce 'on the spot' proof of booking and payment.
- The responsible Council representative may instruct the Hirer to limit noise, music and/or voice amplification to an acceptable level if noise is excessive
- In the event that the activity or conduct contravenes this Policy, the Council representative may direct the Hirer to cease the activity and terminate the hire. All such terminations will result in

Community Facilities Policy

no re-imbursement of fees and charges. Council accepts no liability or responsibility associated with the cancellation.

Cleaning and Securing Venue

- Hirers must switch off all lights, audio visual equipment, close windows, ensure all facility doors are locked and the alarm activated before leaving the premises. The security bond will be forfeited if Council has to secure the facility.
- All furniture must be returned to its original position at the completion of the booking as indicated on the floor plan/signage in each room. Return any items that may have used from other rooms.
- Leave the venue in a clean condition – wipe the tables, bench tops in the kitchen, sweep and mop the floor, leave the toilets clean. Food waste, fat splatters and spills left on the kitchen equipment must be cleaned thoroughly and the dishwasher emptied.
- Rubbish is to be placed in the bins provided; if the rubbish exceeds the bin capacity then the Hirer must remove the additional rubbish from the premises.

Where the venue is determined to have been left in an unsatisfactory condition, a cleaning fee will be deducted from the bond. Where no proper and reasonable attempt has been made to clean the venue the bond will be forfeited.

Parking

Street parking is available near all venues, however there are limited spaces and there is no guarantee of Hirers and their guests obtaining a street parking space at the time of the booking. It is important that all Hirers inform their guests of these limitations.

Restricted Items

Barbeques, spits, smoke machines, confetti, chewing gum, fireworks, incense and candles for decorative purposes are prohibited and will trigger the fire alarms if used. The cost of the emergency callout to attend to fire alarms will be charged to the Hirer. Disposing of rubbish, cigarette and cigar butts on the ground outside the venue is not allowed.

Floors, walls or any part of the building shall not be broken or pierced by nails, screws nor shall any appliance, fitting or fixture be interfered with in any way. Adhesives are not be used on any surface (reusable putty adhesive, such as Blu-tac may be used only if adequately removed by Hirer).

Storage

Limited storage space is available for hire at the Woodstock and Burwood Park Community Centres on a monthly or yearly basis. No additional items or storage units are to be installed at any of the Council venues without prior permission from Council. No flammable or illegal materials are to be stored at the venue. No liability will be accepted by Council for the loss or damage to any materials stored at the premises.

Repairs and Maintenance

Repair and maintenance requirements are to be reported to a Council Customer Service Officer as soon as practicable after they are noticed. Council will endeavour to undertake repairs and maintenance as soon as practicable and within its budget constraints.

Shared Venue/Disputes

Some venues have multiple rooms available for hire. If any dispute regarding usage arises, in the first instance, the disputing parties are to attempt to resolve it between themselves. If the matter is

Community Facilities Policy

not resolved after the discussion between the parties, the issue should be brought to the attention of the Manager, Customer Service and Records the next working day.

Electrical Equipment

It is a safety requirement that all electrical cords, power boards, appliances and special equipment brought by the Hirer to the venue must be tagged and tested. Failure to comply with this standard may blow the power fuses. Emergency callout costs for a technician to repair power circuits will be deducted from the Hirer's bond. Heating equipment is not allowed as due to the risk to the venue and users.

Internet Access

Burwood Council provides free, public internet access at some venues via an unsecured wireless network. It is strongly recommended that you do not use this network to transmit any personal, financial or legal data. It is not possible for Burwood Council to protect you against malicious theft or the interception of any data transmitted over this network. Burwood Council is not responsible for the quality of transmissions, interruptions in connectivity or loss of data/information as a result of using this wireless service.

This wireless network is intended for lawful purposes only. This public wireless service may not be used to violate any standards, laws or regulations of local, state or federal governments/agencies, or International treaty.

Users release Burwood Council from all liability arising from any content accessed via the wireless network. Burwood Council shall not be held liable for any damages to user equipment (laptop, handheld, etc.) or for modifications made to hardware necessary to access this network. Burwood Council staff does not provide any technical support with this access. Burwood Council shall be held harmless as a direct or indirect result of the wireless user's use of this public network. Burwood Council makes no guarantees for access and reserves the right to limit bandwidth per connection.

8. Review

To be reviewed every four years.

9. Contact

Group Manager - Customer Service and Records
02 9911 9911

10. Appendix: Community Facilities Hire Application Form



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Suite 1, Level 2 1-17 Elsie Street
BURWOOD NSW 2134
PO BOX 240, BURWOOD NSW 1805
Telephone: 9911 9911 Fax: 9911 9900
Website: www.burwood.nsw.gov.au
Email: council@burwood.nsw.gov.au

COMMUNITY FACILITIES HIRE APPLICATION

Available Facilities						
Location	Facility for Hire	Max Capacity	Tables*	Chairs	Permissible Uses	
Community Hub	Carpenter Room	100	4	70	<ul style="list-style-type: none"> • Meetings • Training & Education • Seminars • Workshops 	<ul style="list-style-type: none"> • Conventions • Exhibitions • Selected Private Functions
Woodstock	Penfold Ballroom	60	5	40	<ul style="list-style-type: none"> • Meetings • Selected Private Functions 	<ul style="list-style-type: none"> • Training & Education • Performances
	Renwick – GR1	25	2	20		
	Scholes Room	15	2	20		
	Keep Supper Room	20	2	20		
	Jackett Room	60	4	40		
	Hardie – GR2	25	2	15		
	Cardew – GR3	15	1	5		
George Street Centre	Meeting Room	50	6	50	<ul style="list-style-type: none"> • Meetings • Training & Education • Workshops 	<ul style="list-style-type: none"> • Private Functions • Religious Meetings
Fitzroy Hall	Main Hall	120	9	100	<ul style="list-style-type: none"> • Private Functions • Exercise classes • Performances • Exhibitions 	<ul style="list-style-type: none"> • Meetings • Religious Meetings • Training & Education • Seminars
Burwood Park	Community Centre	80	5	60	<ul style="list-style-type: none"> • Private Functions • Exercise Classes • Meetings 	<ul style="list-style-type: none"> • Religious Meetings • Training & Education
	General Park Area	11,500			<ul style="list-style-type: none"> • Performances • Private functions 	<ul style="list-style-type: none"> • Concerts • Events
	Pavilion	70			<ul style="list-style-type: none"> • Private functions • Performances 	<ul style="list-style-type: none"> • Concerts • Events
Woodstock Park	General Park Area	200			<ul style="list-style-type: none"> • Private functions • Performances 	<ul style="list-style-type: none"> • Concerts • Events

*more tables are available on request


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BURWOOD NSW 2134

Community Facilities Policy

Suite 1, Level 2 1-17 Elsie Street

PO BOX 240, BURWOOD NSW 1805

Telephone: 9911 9911 Fax: 9911 9900

 Website: www.burwood.nsw.gov.au

 Email: council@burwood.nsw.gov.au

COMMUNITY FACILITIES HIRE APPLICATION

Our Group is: (Please tick appropriate box and)			
<input type="checkbox"/> Non-Profit Organisation* (proof required)	<input type="checkbox"/> Commercial	<input type="checkbox"/> Religious Service	<input type="checkbox"/> Exhibition
<input type="checkbox"/> Burwood Community Group* (proof required)	<input type="checkbox"/> Seniors Group* (proof required)	<input type="checkbox"/> Function	<input type="checkbox"/> Other

* Please refer to the terms and conditions and provide supporting documentation with your application.

Applicant Details: (Person assuming responsibility - must be over 21 years)		
Organisation/ Individual Name:		
Postal Address:		
Australian Business Number (ABN):		
Website Address:		
Do you have a swipe card?	Yes <input type="checkbox"/> Swipe card #	No <input type="checkbox"/>

Contact Person 1:			
Name:			
Phone:		Mobile:	
Email Address:			
Contact Person 2:			
Name:			
Phone:		Mobile:	
Email Address:			

Booking Information:		
Activity Type:	<input type="checkbox"/> Meeting <input type="checkbox"/> Multicultural Group <input type="checkbox"/> Arts / Drama / Dance <input type="checkbox"/> Playgroup <input type="checkbox"/> Training / Education	<input type="checkbox"/> Function <input type="checkbox"/> Birthday- Age..... <input type="checkbox"/> Religious Service <input type="checkbox"/> Physical Activity/ Exercise <input type="checkbox"/> Youth Program

Community Facilities Policy

Booking Information:				
Will this be a: (Please tick applicable) <input type="checkbox"/> Casual Hire (up to 11 bookings per calendar year) <input type="checkbox"/> Regular Hire (12 or more bookings per calendar year)				
Date	Time (including setup and pack up)	Number of People	Venue/Room Name	Description of the activity and what it involves:
eg: 1/1/11	10 am -10 pm	20	Fitzroy Hall	Active Parenting workshop. Discussing the benefits of parents engaging in sport / exercise with their children. Guest speakers from Football NSW and AUSTSWIM. Includes a short practical session.
	-			
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	-			

Regular Hire Additional Information:	
Please Note: a valid Certificate of Currency as evidence of Public Liability Insurance to the value of \$20 million is required for 12 or more bookings per calendar year	
Date exclusions: (i.e. School holidays, public holidays)	
Invoice frequency:	<input type="checkbox"/> Monthly <input type="checkbox"/> Quarterly <input type="checkbox"/> Six Monthly
Name of contact person for the activity: (if different from the applicant)	
Phone:	

Community Facilities Policy

Activity Details:		
Is the activity open to the public:	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Will the activity be advertised:	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If Yes, please provide details and attach a copy of advertising documentation:		
Will amplified or live music be used during your booking:	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Will you be serving food and beverage items	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Will you be selling food and beverage items	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Will you be serving alcohol	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Will alcohol be available for sale	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Will you be using any additional props, furniture or equipment other than what has been provided by Burwood Council	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If Yes, please provide details		

Further Details:		
Are you a club, association, sporting body or incorporated body	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Will you be utilising the facility for commercial or profit making purposes	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Will you be engaging the services of a contractor to conduct activities on the premises during your booking (i.e. Jumping castles, catering company)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
If you answered yes to any of the above questions, you are required to provide a copy of a valid Certificate of Currency as evidence of Public Liability Insurance to the value of \$20 million. Please attach to this application.		

Do You Need? (additional bonds and charges may apply)		
Commercial Kitchen (Community Hub & Fitzroy only)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Hearing Loop Adaptor (Community Hub only)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Room Divider (Community Hub & Fitzroy only)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Portable Ramp for stage access (Auditorium / Carpenter Room only)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Disabled Access for upstairs rooms at Woodstock	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Whiteboard	Yes <input type="checkbox"/>	No <input type="checkbox"/>
TV or Projector	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Microphone (Community Hub, Fitzroy & Pavilion only)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Piano (Woodstock & Fitzroy only)	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Additional Tables (Community Hub only)	Yes <input type="checkbox"/> # _____	No <input type="checkbox"/>
Additional Chairs (Community Hub only)	Yes <input type="checkbox"/> # _____	No <input type="checkbox"/>
Room Setup (charges apply)	Yes <input type="checkbox"/>	No <input type="checkbox"/>

PRIVACY STATEMENT

If you are applying for consent as an individual, you may be providing Council with personal information (such as your name and address) within the meaning of the *Privacy and Personal Information Protection Act 1998*.

You are obliged by law to provide your name and address. If you do not provide the personal information requested Council may be unable to process your application.

Council is collecting this personal information from you in order to identify and process your application.

You may make application for access or amendment to information held by Council. You may also make a request that Council suppress your personal information from being made publicly available. Council will consider any such application in accordance with the relevant legislation.

Enquiries concerning this matter can be addressed to Council's Public Officer.

Release & Indemnity**Release**

The Hirer unconditionally release Council from all claims, suits, demands, actions or proceedings (whether at law, in equity or arising under any statute) arising out of or in connection with an act, default or omission of Hirer or any of Hirer's Agents. Hirer agrees not to sue or make any claim or demand against Council in respect of matters covered by this release.

Indemnity

The Hirer hereby grants the Council an indemnity from and against all actions, claims, costs, losses, expenses and damages (including the costs of defending or settling any action or claim) in respect of:

- Loss, loss of use, or damage to property of Council resulting from or by reason of anything done or omitted to be done by Hirer arising out of Hirer's activities undertaken at or near Council's facility during the hiring period.
- Personal injury (including death) or illness to any person or loss of use, or damage to any property resulting from or by reason of anything done or omitted to be done by Hirer arising out of Hirer's activities undertaken at or near Council's facility during the hiring period.

Your liability to indemnify Council is reduced proportionally to the extent that a negligent act or omission of Council or its employees has contributed to the injury, damage or loss.

I have read and understood this indemnity:

Signature: **Name:**

Position: **Date:**/...../.....

Conditions of Hire

It is in your best interest to obtain insurance cover in respect of the activity you propose to carry out on the Council's premises. If you do not have access to insurance cover, then you should seek advice regarding the release and indemnity you are giving in favour of Council before proceeding with your application to hire the premises.

I acknowledge that I have read and understood Council's Terms & Conditions applying to the Use of Halls, a copy of which has been supplied to me and agree to be bound by them.

I am aware that Council Centres may be monitored by Closed Circuit TV for security purposes.

I have read and understood the Conditions of Hire:

Signature: **Date:**/...../.....

Applicant's Name (BLOCK LETTERS):



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SUITE 1, LEVEL 2
1-17 ELSIE STREET, BURWOOD NSW 2134
PO BOX 240, BURWOOD NSW 1805
TEL: 9911 9911 FAX: 9911 9900
WEBSITE: www.burwood.nsw.gov.au

FACILITIES TERMS & CONDITIONS OF USE - BOND FORM

Burwood Council Venue Hired:					
<input type="checkbox"/> Community Hub	<input type="checkbox"/> Fitzroy Hall	<input type="checkbox"/> Woodstock or Woodstock Park			
<input type="checkbox"/> George Street Centre	<input type="checkbox"/> Burwood Community Centre	<input type="checkbox"/> Burwood Park			

Bond Information:					
I, have paid the following amount \$..... for the following bond/s:					
<input type="checkbox"/> Security	<input type="checkbox"/> Swipe Card	<input type="checkbox"/> Alcohol	<input type="checkbox"/> Kitchen	<input type="checkbox"/> Park	<input type="checkbox"/> AV
Swipe Card Number:			Receipt Number:		
Organization / Name:			Phone:		
Email:					

Bond Refund Method: (Please tick one option)	
<input type="checkbox"/> Online - If payment was / will be made through Council's website, money will be refunded to the credit card used. This is the quickest refund method.	
<input type="checkbox"/> Electronic Bank Transfer (Transfer times are slightly reduced with CBA accounts)	<input type="checkbox"/> Cheque payable to
Bank Name:	Name:
Account Name:	Postal Address:
Account Number:	
BSB:	

Conditions of Bond
<p>I, the Hirer, agree with Burwood Council to use the venue and swipe card/key on the following terms:</p> <ul style="list-style-type: none"> To use the venue only for the agreed time and purpose specified on application. To ensure good order at the venue during its use, and leave the venue in a clean and tidy state. To lock all windows and doors, and disarm and arm the venue security system (as required) on entry and exit. To immediately report to Council any damage or break-in. To immediately report to Council if the key or swipe card is lost or stolen. To read, understand, and agree to abide by Burwood Council's Community Centres Policy, including Terms & Conditions. I agree to be fully responsible for the payment of fees and any additional charges arising out of hiring, in accordance with the Terms & Conditions that have been supplied to me. <p>I have read and understood the Conditions of Bond:</p> <p>Signature: Date:/...../.....</p> <p>Payee's Name (BLOCK LETTERS):</p> <p>(Cheque and Electronic Bank Transfer can only be refunded to the payee)</p> <p>Refunds will be processed within 30 days, once the Swipe Card is returned and inspection of the venue is completed.</p>

PRIVACY STATEMENT

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Council is collecting this personal information from you in order to identify and process your application.

You may make application for access or amendment to information held by Council. You may also make a request that Council suppress your personal information from being made publicly available. Council will consider any such application in accordance with the relevant legislation.

Enquiries concerning this matter can be addressed to Council's Public Officer.

11. Appendix: Community Facilities Concession Application Form

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SUITE 1, LEVEL 2
1-17 ELSIE STREET, BURWOOD, NSW 2134
PO BOX 240, BURWOOD, NSW 1805
TEL: 9911 9911 FAX: 9911 9900
WEBSITE: www.burwood.nsw.gov.au

COMMUNITY FACILITIES – CONCESSION APPLICATION

Burwood Council offers groups the opportunity to apply for a concession on hire fees if they can prove they are eligible to receive reduced rates.

To be eligible for a concession, applicants MUST:

- Complete the form below and provide the relevant supporting documentation
- Demonstrate that the full costs of the facility usage cannot be met by the organisation or be recovered from participants
- Demonstrate how the program assists Council and the community to achieve shared objectives outlined in Council's Strategic Plan.

NAME OF ORGANISATION/GROUP		
Contact Name:		
Title/Position:		
Postal Address:		Postcode:
Phone: Work: ()	Home: ()	
Mobile: ()	Fax: ()	
ABN:	Email:	
Applicant's Signature:		
ABOUT YOUR ORGANISATION		
Describe your group or organisation:		
1. Non – Profit Organisation	<input type="checkbox"/> Yes	<input type="checkbox"/> No
2. Burwood Community Group	<input type="checkbox"/> Yes	<input type="checkbox"/> No
3. Seniors – 90% of members over 55	<input type="checkbox"/> Yes	<input type="checkbox"/> No
4. Other – Please specify	<input type="checkbox"/> Yes	<input type="checkbox"/> No
If you answered Yes, please provide written documentation.		
What are the aims of your organisation and how long has it been established?		
What is the proposed use of the facility?		
Number of members:		

Community Facilities Policy

Is your group/organisation based in the Burwood Council area? <input type="checkbox"/> Yes <input type="checkbox"/> No
COMMUNITY BENEFIT
Does your group provide a service to the Burwood Council area? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, please provide details of how your group increases the range of quality, social, leisure, cultural and recreational opportunities in Burwood.
Would you describe the members of your group or users of its services as diverse? Please describe the diversity (gender, age, interests, disability, financially disadvantaged, cultural diversity).
What percentages of people attending your activities live in the Burwood Local Government area? i.e. Burwood, Croydon, Enfield, Croydon Park and Strathfield.
Note: Approved community groups should be located within the Burwood Municipality and provide a service to the local community.
FUNDING FOR THE ORGANISATION
Which of the following does the Hirer depend on most for the activity to remain financially viable? (Please indicate source)
Government funding or grants:
Program funding including sponsorship or community grants:
Income from membership, fees or charges for program:
Ticket or programme sales:
Participant donations including collections, gold coin donations: Volunteerism
Will people be required to pay set fees or admission to participate in the program / activity / event? (Please supply a list of fees and charges)
Is any of the income / funding / sponsorship allocated to the cost of the facility?
Does the group/activity depend on the work and contributions of volunteers?

Council Contact

Community Facilities Officer on 9911 9911


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ACKNOWLEDGEMENT

I confirm that the information supplied within this application is true and correct. I understand that any concession awarded applies to venue hire only and does not reduce additional charges such as administration, damage costs, storage or equipment use. I acknowledge that provision of misleading information may result in Council cancelling my booking without notice and retaining relevant costs.

.....
Name of Hirer – [BLOCK LETTERS]
 (on behalf of the organisation)

.....
Signature

.....
Organisation

.....
Date

Privacy Statement

If you are applying for consent as an individual, you may be providing Council with personal information (such as your name and address) within the meaning of the *Privacy and Personal Information Protection Act 1998*.

You are obliged by law to provide your name and address. If you do not provide the personal information requested Council may be unable to process your application.

Council is collecting this personal information from you in order to identify and process your application.

You may make application for access or amendment to information held by Council. You may also make a request that Council suppress your personal information from being made publicly available. Council will consider any such application in accordance with the relevant legislation.

Enquiries concerning this matter can be addressed to Council's Public Officer.

(ITEM 19/19) ADOPTION - DRAFT CODE OF CONDUCT AND THE ADMINISTRATION OF THE CODE OF CONDUCT

File No: 19/2425

REPORT BY DEPUTY GENERAL MANAGER CORPORATE, GOVERNANCE & COMMUNITY

Summary

On 18 December 2018 (circular 18-44) the Office of Local Government (OLG) issued the new Model Code of Conduct (the Model Code) and procedures for the administration of the Code of Conduct. Council is required to have its new Code, based on the prescribed Model Code and Procedures, in place by 14 June 2019.

The draft Code of Conduct and the Procedures for the Administration of the Code of Conduct are now submitted to Council for adoption.

Operational Plan Objective

2.1.3 Ensure transparency and accountability in decision making

Background

The OLG issued the new Model Code of Conduct and the Administration of the Code of Conduct Procedures on 18 December 2018. Council has six months from the date of prescription (14 December 2018 – 14 June 2019) to adopt the Code of Conduct and the Procedures for the Administration of the Code of Conduct which must be based on the prescribed Model Code of Conduct and Procedures.

The transitional arrangements for the new Model Code of Conduct and Procedures are set out below:

- Council's Complaints Co-ordinator, the Internal Ombudsman, should bring the circular and the attached FAQ to the attention of Council's Panel of Conduct Reviewers (the Panel) and should also inform the Panel when the Council has adopted a new Code of Conduct and the Procedures and provide copies.
- Council is required to review the Panel if it has not done so in the past four years. Council may appoint from shared panels with other councils including through a joint organisation or another regional body associated with the councils.
- Council's existing adopted Code of Conduct and the Procedures will remain in force until such time as Council has adopted a new code of conduct and procedures based on the Model Code of Conduct and Procedures prescribed under the Regulation.
- If Council fails to adopt a new Code of Conduct and Procedures based on the new Model Code of Conduct and Procedures within six months of their prescription, the provisions of the new Model Code of Conduct and Procedures will automatically override any provisions of a Council's adopted Code of Conduct and Procedures.
- In adopting a new Code of Conduct and Procedures, Council may include provisions that are supplementary to those contained in the Model Code of Conduct and Procedures. Council may also impose more onerous requirements under the adopted Code of Conduct than those prescribed under the Model Code of Conduct. However, Council must not dilute the standards prescribed under the Model Code of Conduct in their adopted codes of conduct.
- Code of Conduct Complaints must be assessed against the standards prescribed under the version of the Council's Code of Conduct that was in force at the time the conduct the subject

of the complaint is alleged to have occurred.

- Code of Conduct Complaints must be dealt with in accordance with the version of the Council's procedures that were in force at the time the complaint was made.

The OLG has also provided a Frequently Asked Questions publication which has been attached to this report to provide further information on the Model Code of Conduct and the Procedures.

Proposal

The new Model Code gives effect to a key reform made by amendments passed by the NSW Parliament to consolidate the prescription of all ethical standards for local government into a single statutory instrument. Previously ethical standards were prescribed from three sources: the pecuniary interest provisions of the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, and the Model Code of Conduct.

Other key changes include:

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

The proposed draft Burwood Council Code of Conduct and the Procedure for the Administration of the Code of Conduct have been further enhanced with the addition of recommendations stemming from the ICAC Report of April 2011 into Burwood Council and the additional clauses specific to Burwood including clauses suggested by its Internal Ombudsman.

Where Council has developed additional policies, corporate practices and procedures to complement the Code of Conduct these have been noted and have been listed under the appropriate section in the draft Code and/or the draft Procedures.

Under the draft Code of Conduct the Complaints Co-ordinator is the Internal Ombudsman and the Alternate Complaints Co-ordinator is the Manager Governance.

The draft – Code of Conduct including the Procedures for the Administration of the Code of Conduct Procedures is now submitted to Council for adoption.

Consultation

The draft Code of Conduct has been reviewed by the Manager Governance and the Internal Ombudsman. The documents was endorsed by Council's Policy, Corporate Practice and Procedures Panel and approved by the General Manager.

Planning or Policy Implications

Once adopted by Council the Code will be:

1. Published on the Councillor Portal and on Council's website
2. Councillors and Council Officers will be advised via email with a note from the Internal Ombudsman
3. Both Councillors and Council Officers will be requested to sign the acknowledgement form which states that they have read the Code and agree to abide by its provisions.

Financial Implications

No Financial implications.

Conclusion

It is in order for the Council to adopt the draft Code of Conduct and the Procedures for the Administration of the Code Conduct. The document complies with the requirements of the *Local Government Act 1993*, the *Local Government (General) Regulations 2005*, the Model Code of Conduct and the Model Procedures for the Administration of the Code of Conduct issued by the OLG, and also include Burwood Council clauses to enhance the Code.

Recommendation(s)

That Council adopts the draft Code of Conduct and the Procedures for the Administration of the Code of Conduct.

Attachments

- 1 [↓](#) draft - Code of Conduct and the Procedures for the Administration of the Code of Conduct
- 2 [↓](#) Frequently Asked Questions



Burwood Council

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DRAFT – CODE OF CONDUCT AND THE PROCEDURES FOR THE ADMINISTRATION OF THE CODE OF CONDUCT

From the Office of Local Government Model Code of Conduct and the Procedures for the Administration of the Code of Conduct - 2018

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Code of Conduct and Procedures for the Administration of the Code of Conduct**PART 1 INTRODUCTION**

This *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct") is made under section 440 of the *Local Government Act 1993* (the Act) 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 Act requires every Council (including county Councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. A Council's or joint organisation's adopted code of conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "Council officials" for the purposes of the Model Code of Conduct (eg volunteers, contractors and members of wholly advisory committees).

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

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

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

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

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

Note: In adopting the Model Code of Conduct, joint organisations should adapt it to substitute the terms "board" for "Council", "chairperson" for "mayor", "voting representative" for "Councillor" and "executive officer" for "General Manager".

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

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PART 2 DEFINITIONS

In this code the following terms have the following meanings:

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

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

PART 3 GENERAL CONDUCT OBLIGATIONS

General Conduct

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

Fairness and Equity

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

Harassment and Discrimination

- 3.6 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of sex, pregnancy,

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breastfeeding, race, age, marital or domestic status, homosexuality, disability, transgender status, infectious disease, carer's responsibilities or political, religious or other affiliation.

3.7 For the purposes of this code, "harassment" is any form of behaviour towards a person that:

- a. is not wanted by the person
- b. offends, humiliates or intimidates the person
- c. creates a hostile environment

Bullying

3.8 You must not engage in bullying behaviour towards others.

3.9 For the purposes of this code, "bullying behaviour" is any behaviour in which:

- a. a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons and
- b. the behaviour creates a risk to health and safety

3.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:

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

3.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:

- a. performance management processes
- b. disciplinary action for misconduct
- c. informing a worker about unsatisfactory work performance or inappropriate work behaviour
- d. directing a worker to perform duties in keeping with their job
- e. maintaining reasonable workplace goals and standards
- f. legitimately exercising a regulatory function
- g. legitimately implementing a Council policy or administrative processes

Further information on Clauses 3.6 to 3.11 can be found in Council's Discrimination, Harassment, Bullying Corporate Practice and Grievance Procedure.

Work Health and Safety

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

- a. take reasonable care for your own health and safety
- b. take reasonable care that your acts or omissions do not adversely affect the health and

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- safety of other persons
- c. comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WH&S Act and any policies or procedures adopted by the Council to ensure workplace health and safety
- d. cooperate with any reasonable policy or procedure of the Council relating to workplace health or safety that has been notified to Council staff
- e. report accidents, incidents, near misses, to the General Manager or such other staff member nominated by the General Manager, and take part in any incident investigations
- f. so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WH&S Act in relation to the same matter

Further information can be found in Council's Work Health and Safety Corporate Practice.

Land Use Planning, Development Assessment and Other Regulatory Functions

- 3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.
- 3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

Binding Caucus Votes

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

Further information can be found in Council's Councillor Induction, Briefings & Workshops Policy and the Code of Meeting Practice.

Obligations in Relation to Meetings

- 3.19 You must comply with rulings by the chair at Council and committee meetings or other proceedings of the Council unless a motion dissenting from the ruling is passed.
- 3.20 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other Council officials or any members of the public present during Council or committee meetings or other proceedings of the Council (such as, but not limited to, workshops and

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briefing sessions).

- 3.21 You must not engage in conduct that disrupts Council or committee meetings or other proceedings of the Council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.
- 3.22 If you are a Councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the Council, or of a committee of the Council. Without limiting this clause, you must not:
- leave a meeting of the Council or a committee for the purposes of depriving the meeting of a quorum, or
 - 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
 - deliberately seek to impede the consideration of business at a meeting

Further information can be found in Council's Code of Meeting Practice.

Electronic and Social Media (Burwood Council Clause)

- 3.23 You must not use Council's electronic communications (including, but not limited to the Internet, the email system, mobile phones, text messaging services, and social media access) in any manner which could be construed as disparaging or defamatory of colleagues or Council, or which could bring Council into disrepute.
- 3.24 You must not use any electronic communications or social media facilities, at work or otherwise, to engage in bullying or harassing behaviours towards colleagues or any other person.
- 3.25 You must not use any electronic communications or social media facilities, at work or otherwise, in a manner which identifies you as a Council official and which could be construed as bringing Council into disrepute.

Further information can be found in Council's Use and Monitoring of Network, Skype and Internet Corporate Practice.

Fraud and Corruption (Burwood Council Clause)

- 3.26 You must not engage or participate in an act that may constitute fraud or corruption.
- 3.27 For the purpose of this Part, fraud and corruption are defined as follows:
- Fraud is defined as 'dishonest activity causing actual or potential financial loss to any person or entity including theft of moneys or other property by employees or persons external to the entity and where deception is used at the time, immediately before or immediately following the activity. This also includes the deliberate falsification, concealment, destruction or use of falsified documentation used or intended for use for a normal business purpose or the improper use of information or position for personal financial benefit' – Australian Standard for Fraud and Corruption Control (AS8001-2008).
 - Corruption is defined as 'dishonest activity in which a director, executive, manager, employee or contractor of any entity acts contrary to the interests of the entity and abuses his/her position of trust in order to achieve some personal gain or advantage for him or herself or for another person or entity' – Australian Standard for Fraud and Corruption Control (AS8001-2008).

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- c. The general nature of corruption, and acts which may constitute corrupt conduct, are defined under sections 7, 8 and 9 of the *Independent Commission Against Corruption Act 1988* (ICAC Act).
- 3.28 You must not ignore or condone any act that you reasonably suspect to constitute fraud or corruption.
- 3.29 Should you have an honest belief or suspicion, on reasonable grounds, that a fraudulent or corrupt act has been committed, you must disclose this to the Internal Ombudsman, the General Manager, or a Nominated Disclosure Officer (NDO) at the earliest opportunity.
- 3.30 The General Manager has a statutory obligation, under section 11 of the ICAC Act, to report suspicions of corrupt conduct to the Independent Commission Against Corruption. Any Council official is, therefore, expected to report any reasonable suspicion of fraud or corruption in accordance with clause 3.21.

Further information can be found in Council's:

- *Public Interest Disclosures Act 1994* – Internal Reporting Policy
- *Public Interest Disclosures Act 1994* - Procedure For Assessing Disclosures and Investigations
- Fraud and Corruption Prevention Policy
- Fraud and Corruption Prevention Action Plan

Salary Overpayments (Burwood Council Clause)

- 3.31 If you receive an over payment by Council, and you know or believe that payment to be incorrect, you are expected to take such steps as are reasonable in the circumstances to ensure that the amount is returned in accordance with the Australian Tax Office's guidelines.

Obligation to Report Criminal Convictions or Other Factors - that may affect your employment or ability to carry out your workplace duties (Burwood Council Clause)

- 3.32 If, during the course of your employment at Council, you incur a criminal conviction, you must report this to Organisation Development at the earliest practical opportunity, but at the latest, within 10 working days of receiving the conviction.
- 3.33 If your working rights in Australia change during the course of your employment, such that they may impact upon your continued employment at Council, you must report this to Organisational Development at the earliest practical opportunity, but at the latest, within 10 working days of the changes being made.
- 3.34 If you are required to operate a vehicle in the course of your duties, you must notify your supervisor or in the case of the Mayor the General Manager, if your driving licence is no longer valid, even if only for a period of time. This must be reported at the earliest practical opportunity, but at the latest, within 10 working days of the change to your driving licence status being made.

Child Protection (Burwood Council Clause)

- 3.35 For the purpose of this Part, the term "child abuse" is defined as "physical and/or emotional harm to a person who is under the age of 18 years", and it typically takes the form of physical, psychological, sexual abuse, maltreatment and/or neglect. Further guidance on child abuse can be found on the NSW Office of Children's Guardian website.
- 3.36 When dealing with a person (staff or customer) who is under the age of 18 years, you must

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not engage in behaviour which constitutes (or could be perceived to be) child abuse.

- 3.37 You are expected to take all reasonable steps to ensure that a person whom you interact with in your daily work and who is under the age of 18 years is not exposed to child abuse.
- 3.38 For those staff whose role is defined as a "mandatory reporter" under the *Children and Young Persons (Care and Protection) Act 1998*, you are expected to fulfil the requirements of you that are set out therein.
- 3.39 For all staff, whether defined as a "mandatory reporter" or not, you are expected to take all reasonable steps to ensure that you prevent and/or that you report known or suspected instances of child abuse by another staff member to the Internal Ombudsman.

Further information can be found in Council's Child Protection Corporate Practice.

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
 - b. the interest of your spouse or de facto partner, your relative, or your partner or employer
 - c. a company or other body of which you, or your nominee, partner or employer, is a shareholder or member
- 4.4 For the purposes of clause 4.3:
- a. Your "relative" is any of the following:
 - i. your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - ii. your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - iii. the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
 - b. "de facto partner" has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):
- a. if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, 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

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- c. just because the person is a member of, or a delegate of a Council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body

What interests do not have to be disclosed?

4.6 You do not have to disclose the following interests for the purposes of this Part:

- a. your interest as an elector
- b. your interest as a ratepayer or person liable to pay a charge
- c. an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this code
- d. an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this code
- e. an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
- f. if you are a Council committee member, an interest you have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if you have been appointed to represent the organisation or group on the Council committee
- g. an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
- h. an interest you have arising from the proposed making by the Council of an agreement between the Council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
- i. an interest you have arising from the making by the Council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the Council in respect of similar matters with other residents of the area:
 - i. the performance by the Council at the expense of your relative of any work or service in connection with roads or sanitation
 - ii. security for damage to footpaths or roads
 - iii. any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council, or by or under any contract
- j. an interest relating to the payment of fees to Councillors (including the Mayor and deputy mayor)
- k. an interest relating to the payment of expenses and the provision of facilities to Councillors (including the Mayor and deputy mayor) in accordance with a policy under section 252 of the Act
- l. an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor
- m. an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
- n. an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Councillor or a Council committee member

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- o. an interest arising from the appointment of a Councillor to a body as a representative or delegate of the Council, whether or not a fee or other recompense is payable to the representative or delegate
- 4.7 For the purposes of clause 4.6, "relative" has the same meaning as in clause 4.4, but includes your spouse or de facto partner.

Further information can be found in Council's Conflicts of Interest Policy.

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 Act
 - c. a person (other than a member of the senior staff of the Council) who is a member of staff of the Council or a delegate of the Council and who holds a position identified by the Council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
 - d. a person (other than a member of the senior staff of the Council) who is a member of a committee of the Council identified by the Council as a committee whose members are designated persons because the functions of the committee involve the exercise of the Council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest
- 4.9 A designated person:
- a. must prepare and submit written returns of interests in accordance with clauses 4.21
 - b. must disclose pecuniary interests in accordance with clause 4.10
- 4.10 A designated person must disclose in writing to the General Manager (or if the person is the General Manager, to the Council) the nature of any pecuniary interest the person has in any Council matter with which the person is dealing as soon as practicable after becoming aware of the interest.
- 4.11 Clause 4.10 does not require a designated person who is a member of staff of the Council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.
- 4.12 The General Manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.
- 4.13 A disclosure by the General Manager must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the Council and the Council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

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

- 4.14 A member of staff of Council, other than a designated person, must disclose in writing to their manager or the General Manager the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.
- 4.15 The staff member's manager or the General Manager must, on receiving a disclosure under

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clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by Council advisers?

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

What disclosures must be made by a Council committee member?

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

What disclosures must be made by a Councillor?

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

Disclosure of Interests in Written Returns

- 4.21 A Councillor or designated person must make and lodge with the General Manager a return in the form set out in schedule 2 to this code, disclosing the Councillor's or designated person's interests as specified in schedule 1 to this code within 3 months after:
- a. becoming a Councillor or designated person
 - b. 30 June of each year
 - c. the Councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b)
- 4.22 A person need not make and lodge a return under clause 4.21, paragraphs (a) and (b) if:
- a. they made and lodged a return under that clause in the preceding 3 months
 - b. they have ceased to be a Councillor or designated person in the preceding 3 months
- 4.23 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 4.24 The General Manager must keep a register of returns required to be made and lodged with the General Manager.
- 4.25 Returns required to be lodged with the General Manager under clause 4.21(a) and (b) must be tabled at the first meeting of the Council after the last day the return is required to be lodged.

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- 4.26 Returns required to be lodged with the General Manager under clause 4.21(c) must be tabled at the next Council meeting after the return is lodged.
- 4.27 Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

Further information on Clauses 4.8 to 4.27 can be found in Council's A Guide for Completing Disclosure of Interest Returns.

Disclosure of Pecuniary Interests at Meetings

- 4.28 A Councillor or a Council committee member who has a pecuniary interest in any matter with which the Council is concerned, and who is present at a meeting of the Council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.29 The Councillor or Council committee member must not be present at, or in sight of, the meeting of the Council or committee:
- a. at any time during which the matter is being considered or discussed by the Council or committee
 - b. at any time during which the Council or committee is voting on any question in relation to the matter
- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a Council or Council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the General Manager in writing by a Councillor or a Council committee member to the effect that the Councillor or Council committee member, or the Councillor's or Council committee member's spouse, de facto partner or relative, is:
- a. a member of, or in the employment of, a specified company or other body
 - b. a partner of, or in the employment of, a specified person

Such a notice is, unless and until the notice is withdrawn or until the end of the term of the Council in which it is given (whichever is the sooner), sufficient disclosure of the Councillor's or Council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the Council or Council committee after the date of the notice.

- 4.33 A Councillor or a Council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the Councillor or Council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.34 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.

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

Further information can be found in Council's Conflicts of Interest Policy.

PART 5 NON-PECUNIARY CONFLICTS OF INTEREST

What is a non-pecuniary conflict of interest?

- 5.1 Non-pecuniary interests are private or personal interests a Council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official

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functions in relation to a matter.

- 5.3 The personal or political views of a Council official do not constitute a private interest for the purposes of clause 5.2.
- 5.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of Council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this code.
- 5.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

Managing Non-Pecuniary Conflicts of Interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of Council staff other than the General Manager, such a disclosure is to be made to the staff member's manager. In the case of the General Manager, such a disclosure is to be made to the Mayor.
- 5.7 If a disclosure is made at a Council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
 - a. a relationship between a Council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the Council official's extended family that the Council official has a close personal relationship with, or another person living in the same household
 - b. other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship
 - c. an affiliation between the Council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a Council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
 - d. membership, as the Council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the Council and the organisation are potentially in conflict in relation to the particular matter
 - e. a financial interest (other than an interest of a type referred to in clause 4.6) that is not

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- 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
 - b. if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a Council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.
- 5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.
- 5.12 If you are a member of staff of Council other than the General Manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the General Manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the Mayor.
- 5.13 Despite clause 5.10(b), a Councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.
- 5.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the Council committee.

Further information on Clauses 5.1 to 5.14 can be found in Council's Conflicts of Interest Policy.

Political Donations

- 5.15 Councillors should be aware that matters before Council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.
- 5.16 Where you are a Councillor and have received or knowingly benefitted from a reportable political donation:
 - a. made by a major political donor in the previous four years
 - b. the major political donor has a matter before Council
- 5.17 you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A disclosure made under this clause must be recorded in the minutes of the meeting.
- 5.18 For the purposes of this Part:
 - a. a "reportable political donation" has the same meaning as it has in section 6 of the

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- b. "major political donor" has the same meaning as it has in the *Electoral Funding Act 2018*

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

Loss of Quorum as a Result of Compliance with this Part

- 5.21 A Councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:
- a. the matter is a proposal relating to:
 - i. the making of a principal environmental planning instrument applying to the whole or a significant portion of the Council's area
 - 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
 - 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
 - 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
- 5.22 The Minister for Local Government may, conditionally or unconditionally, allow a Councillor or a Council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the Council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- a. that the number of Councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business
 - b. that it is in the interests of the electors for the area to do so
- 5.23 Where the Minister exempts a Councillor or committee member from complying with a requirement under this Part under clause 5.21, the Councillor or committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

Other Business or Employment

- 5.24 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.
- 5.25 A member of staff must not engage, for remuneration, in private employment, contract work

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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.

- 5.26 The General Manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the Council that relates to the business of the Council, or that might conflict with the staff member's Council duties.
- 5.27 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the Council if prohibited from doing so.
- 5.28 Members of staff must ensure that any outside employment, work or business they engage in will not:
- conflict with their official duties
 - involve using confidential information or Council resources obtained through their work with the Council including where private use is permitted
 - require them to work while on Council duty
 - discredit or disadvantage the Council
 - pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers

Further information can be found in Council's Secondary Employment Corporate Practice.

Personal Dealings with Council

- 5.29 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.
- 5.30 You must undertake any personal dealings you have with the Council in a manner that is consistent with the way other members of the community deal with the Council. You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this code.

PART 6 PERSONAL BENEFIT

- 6.1 For the purposes of this Part, a gift or a benefit is something offered to or received by a Council official or someone personally associated with them for their personal use and enjoyment.
- 6.2 A reference to a gift or benefit in this Part does not include:
- a political donation for the purposes of the *Electoral Funding Act 2018*
 - 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
 - attendance by a Council official at a work-related event or function for the purposes of performing their official duties
 - free or subsidised meals, beverages or refreshments of token value provided to Council officials in conjunction with the performance of their official duties such as,

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but not limited to:

- i. the discussion of official business
- ii. work-related events such as Council-sponsored or community events, training, education sessions or workshops
- iii. conferences
- iv. Council functions or events
- v. social functions organised by groups, such as Council committees and community organisations.

Gifts and Benefits

6.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from the Council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.

6.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.
Further information can be found in Council's Gifts and Benefits Policy.

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

6.5 You must not:

- a. seek or accept a bribe or other improper inducement
- b. seek gifts or benefits of any kind
- c. accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
- d. subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9
- e. accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
- f. participate in competitions for prizes where eligibility is based on the Council being in or entering into a customer–supplier relationship with the competition organiser
- g. personally benefit from reward points programs when purchasing on behalf of the Council.

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

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

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

Gifts and Benefits of Token Value

6.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period

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that, when aggregated, do not exceed a value of \$50. They include, but are not limited to:

- a. invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$50
- b. gifts of alcohol that do not exceed a value of \$50
- c. ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
- d. prizes or awards that do not exceed \$50 in value.

Gifts and Benefits of More than Token Value

- 6.9 Gifts or benefits that exceed \$50 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) and, subject to clause 6.7, must not be accepted.
- 6.10 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$50, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.
- 6.11 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$50 in value.
- 6.12 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

"Cash-like Gifts"

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

Improper and Undue influence

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

Further information on Clauses 6.1 to 6.15 can be found in Council's Gifts and Benefits Policy.

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 Act, the role of the governing body of the Council

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includes the development and endorsement of the strategic plans, programs, strategies and policies of the Council, including those relating to workforce policy, and to keep the performance of the Council under review.

7.2 Councillors or administrators must not:

- a. direct Council staff other than by giving appropriate direction to the General Manager by way of Council or committee resolution, or by the Mayor or administrator exercising their functions under section 226 of the Act
- b. in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the Council or a delegate of the Council in the exercise of the functions of the staff member or delegate
- c. contact a member of the staff of the Council on Council-related business unless in accordance with the policy and procedures governing the interaction of Councillors and Council staff that have been authorised by the Council and the General Manager
- d. contact or issue instructions to any of the Council's contractors, including the Council's legal advisers, unless by the Mayor or administrator exercising their functions under section 226 of the Act

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

Obligations of Staff

- 7.4 Under section 335 of the Act, the role of the General Manager includes conducting the day-to-day management of the Council in accordance with the strategic plans, programs, strategies and policies of the Council, implementing without undue delay, lawful decisions of the Council and ensuring that the Mayor and other Councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.

7.5 Members of staff of Council must:

- a. give their attention to the business of the Council while on duty
- b. ensure that their work is carried out ethically, efficiently, economically and effectively
- c. carry out reasonable and lawful directions given by any person having authority to give such directions
- d. give effect to the lawful decisions, policies and procedures of the Council, whether or not the staff member agrees with or approves of them
- e. ensure that any participation in political activities outside the service of the Council does not interfere with the performance of their official duties.

Inappropriate Interactions

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

- a. Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- b. Council staff approaching Councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- c. subject to clause 8.6, Council staff refusing to give information that is available to other Councillors to a particular Councillor

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- d. Councillors and administrators who have lodged an application with the Council, discussing the matter with Council staff in staff-only areas of the Council
- e. Councillors and administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the Councillor has a right to be heard by the panel at the meeting
- f. Councillors and administrators being overbearing or threatening to Council staff
- g. Council staff being overbearing or threatening to Councillors or administrators
- h. Councillors and administrators making personal attacks on Council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media
- i. Councillors and administrators directing or pressuring Council staff in the performance of their work, or recommendations they should make
- j. Council staff providing ad hoc advice to Councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- k. Council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
- l. Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the Council associated with current or proposed legal proceedings unless permitted to do so by the Council's General Manager or, in the case of the Mayor or administrator, unless they are exercising their functions under section 226 of the Act

Further information on Clauses 7.1 to 7.6 can be found in Council's Councillors Access to Information and Interaction with Council Officers Policy.

PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES

Councillor and administrator access to information

- 8.1 The General Manager is responsible for ensuring that Councillors and administrators can access information necessary for the performance of their official functions. The General Manager and public officer are also responsible for ensuring that members of the public can access publicly available Council information under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 8.2 The General Manager must provide Councillors and administrators with the information necessary to effectively discharge their official functions.
- 8.3 Members of staff of Council must provide full and timely information to Councillors and administrators sufficient to enable them to exercise their official functions and in accordance with Council procedures.
- 8.4 Members of staff of Council who provide any information to a particular Councillor in the performance of their official functions must also make it available to any other Councillor who requests it and in accordance with Council procedures.
- 8.5 Councillors and administrators who have a private interest only in Council information have the same rights of access as any member of the public.
- 8.6 Despite clause 8.4, Councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to Council information in relation to the matter unless the information is otherwise available to members of the public, or the Council has determined to make the information available under the GIPA Act.

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Councillors and Administrators to Properly Examine and Consider Information

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

Refusal of Access to Information

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

Use of Certain Council Information

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

Further information on Clauses 8.1 to 8.9 can be found in Council's:

- Councillors Access to Information and Interaction with Council Officers Policy
- Agency Information Guide
- Privacy Management Plan
- Information Security Corporate Practice

Use and Security of Confidential Information

- 8.10 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.
- 8.11 In addition to your general obligations relating to the use of Council information, you must:
- a. only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
 - b. protect confidential information
 - c. only release confidential information if you have authority to do so
 - d. only use confidential information for the purpose for which it is intended to be used
 - e. not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
 - f. not use confidential information with the intention to cause harm or detriment to the Council or any other person or body
 - g. not disclose any confidential information discussed during a confidential session of a Council or committee meeting or any other confidential forum (such as, but not

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limited to, workshops or briefing sessions).

Further information can be found in Council's Information Security Corporate Practice.

Personal Information

8.12 When dealing with personal information you must comply with:

- a. the *Privacy and Personal Information Protection Act 1998*
- b. the *Health Records and Information Privacy Act 2002*
- c. the Information Protection Principles and Health Privacy Principles
- d. the Council's privacy management plan
- e. the Privacy Code of Practice for Local Government

Further information can also be found in Council's Privacy Management Plan.

Use of Council Resources

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

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

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

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

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

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

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

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

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

Further information can be found in Council's:

Code of Conduct and Procedures for the Administration of the Code of Conduct

- Disposal of Council Assets Corporate Practice and Procedures
- Motor Vehicles Corporate Practice
- Use of Council Intellectual Property (Including Logos) on Personalised Stationery
- Use of Council Resources Policy
- Use of Council Provide Mobile Phones Policy
- Use and Monitoring of Network, Email and Internet Corporate Practice

Internet Access

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

Further information can be found in Council's Use and Monitoring of Network, Skype and Internet Corporate Practice.

Council Record Keeping

- 8.21 You must comply with the requirements of the *State Records Act 1998* and the Council's records management policy.
- 8.22 All information created, sent and received in your official capacity is a Council record and must be managed in accordance with the requirements of the *State Records Act 1998* and the Council's approved records management policies and practices.
- 8.23 All information stored in either soft or hard copy on Council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the Council and will be treated as Council records, regardless of whether the original intention was to create the information for personal purposes.
- 8.24 You must not destroy, alter, or dispose of Council information or records, unless authorised to do so. If you need to alter or dispose of Council information or records, you must do so in consultation with the Council's records manager and comply with the requirements of the *State Records Act 1998*.

Further information can be found in Council's Records Management Plan.

Councillor Access to Council Buildings

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

Further information can be found in Council's Councillors Access to Information and Interaction with Council Officers Policy.

Code of Conduct and Procedures for the Administration of the Code of Conduct

PART 9 MAINTAINING THE INTEGRITY OF THIS CODE

Complaints Made for an Improper Purpose

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

Detrimental Action

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

Compliance with Requirements under the Procedures

- 9.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.
- 9.8 You must comply with a practice ruling made by the Office under the Procedures.
- 9.9 Where you are a Councillor or the General Manager, you must comply with any Council resolution requiring you to take action as a result of a breach of this code.

Code of Conduct and Procedures for the Administration of the Code of Conduct**Disclosure of Information about the Consideration of a Matter under the Procedures**

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

Complaints Alleging a Breach of this Part

- 9.15 Complaints alleging a breach of this Part by a Councillor, the General Manager or an administrator are to be managed by the Office. This clause does not prevent the Office from referring an alleged breach of this Part back to the Council for consideration in accordance with the Procedures.
- 9.16 Complaints alleging a breach of this Part by other Council officials are to be managed by the General Manager in accordance with the Procedures.

Further information on Clauses 9.1 to 9.16 can be found in Council's:

- *Public Interest Disclosures Act 1994* – Internal Reporting Policy
- *Public Interest Disclosures Act 1994* - Procedure For Assessing Disclosures and Investigations
- Administration of the Code of Conduct Procedures (within the Code of Conduct)

SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.21

Part 1: Preliminary**Definitions**

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

address means:

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

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

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

- a. the allotment of shares in a company
- b. the creation of a trust in respect of property
- c. the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property
- d. the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property
- e. the exercise by a person of a general power of appointment over property in favour of another person
- f. a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.

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

interest means:

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

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

occupation includes trade, profession and vocation.

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

property includes money.

return date means:

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

relative includes any of the following:

- a. a person's spouse or de facto partner
- b. a person's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- c. a person's spouse's or de facto partner's parent, grandparent, brother, sister, uncle,

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- 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 or designated person has an interest includes a reference to any real property situated in Australia in which the Councillor or designated person has an interest.
4. *Gifts, loans etc. from related corporations:* For the purposes of this schedule and schedule 2, gifts or contributions to travel given, loans made, or goods or services supplied, to a Councillor or designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.

Part 2: Pecuniary interests to be disclosed in returns**Real Property**

5. A person making a return under clause 4.21 of this code must disclose:
 - a. the street address of each parcel of real property in which they had an interest on the return date, and
 - b. the street address of each parcel of real property in which they had an interest in the period since 30 June of the previous financial year, and
 - c. the nature of the interest.
6. An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:
7.
 - 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.
8. An interest in a parcel of real property need not be disclosed in a return if the person ceased to hold the interest prior to becoming a Councillor or designated person.
9. For the purposes of clause 5 of this schedule, "interest" includes an option to purchase.

Gifts

10. A person making a return under clause 4.21 of this code must disclose:
 - a. a description of each gift received in the period since 30 June of the previous financial year
 - b. the name and address of the donor of each of the gifts

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11. A gift need not be included in a return if:
- 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
 - it was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*
 - the donor was a relative of the donee
 - subject to paragraph (a), it was received prior to the person becoming a Councillor or designated person
12. 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

13. A person making a return under clause 4.21 of this code must disclose:
- 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
 - the dates on which the travel was undertaken
 - the names of the states and territories, and of the overseas countries, in which the travel was undertaken
14. A financial or other contribution to any travel need not be disclosed under this clause if it:
- 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)
 - was made by a relative of the traveller
 - 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
 - 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
 - was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*
 - 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
 - subject to paragraph (d) it was received prior to the person becoming a Councillor or designated person
15. 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

16. A person making a return under clause 4.21 of this code must disclose:
- 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
 - 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
 - the nature of the interest, or the position held, in each of the corporations
 - a description of the principal objects (if any) of each of the corporations, except in the case of a listed company
17. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:

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- 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
 - b. required to apply its profits or other income in promoting its objects
 - c. prohibited from paying any dividend to its members
18. 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.
19. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a Councillor or designated person.

Interests as a Property Developer or a Close Associate of a Property Developer

20. A person making a return under clause 4.21 of this code must disclose whether they were a property developer, or a close associate of a corporation that, or an individual who, is a property developer, on the return date.
21. 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

22. A person making a return under clause 4.21 of the code must disclose:
- a. the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date
 - 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
 - c. a description of the position held in each of the unions and associations
23. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a Councillor or designated person.

Dispositions of Real Property

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

Code of Conduct and Procedures for the Administration of the Code of Conduct**Sources of Income**

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

Debts

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

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- b. the person was liable to pay the debt to a relative
- 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
- 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
 - 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
- e. subject to paragraph (a), the debt was discharged prior to the person becoming a Councillor or designated person.

Discretionary Disclosures

35. 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.

Further information on Schedule 1 can be found in Council's A Guide to Completing Disclosure of Interest Returns.

SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 4.21

'Disclosures by Councillors and Designated Persons' Return

1. The pecuniary interests and other matters to be disclosed in this return are prescribed by Schedule 1 of the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).
2. If this is the first return you have been required to lodge with the General Manager after becoming a Councillor or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a Councillor or designated person.
3. If you have previously lodged a return with the General Manager and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the General Manager, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year or the date on which you became a Councillor or designated person, (whichever is the later date), to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
4. If you have previously lodged a return with the General Manager and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.

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6. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.
7. If there are no pecuniary interests or other matters of the kind required to be disclosed under a heading in this form, the word "NIL" is to be placed in an appropriate space under that heading.

Important information

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

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

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

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

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

Disclosure of Pecuniary Interests and Other Matters by [full name of Councillor or designated person]

as at [return date]

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

[Councillor's or designated person's signature]

[date]

A. Real Property		
Street address of each parcel of real property in which I had an interest at the return date/at any time since 30 June		Nature of interest
B. Sources of income		
1 Sources of income I reasonably expect to receive from an occupation in the period commencing on the first day after the return date and ending on the following 30 June		
Sources of income I received from an occupation at any time since 30 June		
Description of occupation	Name and address of employer or description of office held (if applicable)	Name under which partnership conducted (if applicable)

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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			
<i>[Include description sufficient to identify the person from whom, or the circumstances in which, that income was received]</i>			
C. Gifts			
Description of each gift I received at any time since 30 June		Name and address of donor	
D. Contributions to travel			
Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time since 30 June	Dates on which travel was undertaken	Name of States, Territories of the Commonwealth and overseas countries in which travel was undertaken	
E. Interests and positions in corporations			
Name and address of each corporation in which I had an interest or held a position at the return date/at any time since 30 June	Nature of interest (if any)	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)
F. Were you a property developer or a close associate of a property developer on the return date? (Y/N)			
G. Positions in trade unions and professional or business associations			
Name of each trade union and each professional or business association in which I held any position (whether remunerated or not) at the return date/at any time since 30 June		Description of position	
H. Debts			
Name and address of each person to whom I was liable to pay any debt at the return date/at any time since 30 June			
I. Dispositions of property			
1 Particulars of each disposition of real property by me (including the street address of the affected property) at any time since 30 June as a result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time			
2 Particulars of each disposition of property to a person by any other person under arrangements made by me (including the street address of the affected property), being dispositions made at any time since 30 June, as a result of which I obtained, either wholly or in part, the use and benefit of the property			

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J. Discretionary disclosures

Further information can be found in Council's A Guide for Completing Discourse of Interest Returns.

SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST SUBMITTED UNDER CLAUSE 4.37

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

Important Information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under clause 4.36(c) of the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).

The special disclosure must relate only to a pecuniary interest that a Councillor has in the Councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the Model Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause 4.4 of the Model Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the Council or Council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

Special disclosure of pecuniary interests by *[full name of Councillor]*

in the matter of *[insert name of environmental planning instrument]*

which is to be considered at a meeting of the *[name of Council or Council committee (as the case requires)]*

to be held on the day of 20 .

Pecuniary interest

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Address of the affected principal place of residence of the Councillor or an associated person, company or body (the identified land)	
Relationship of identified land to the Councillor [Tick or cross one box.]	<input type="checkbox"/> The Councillor has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the Councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the Councillor has an interest in the land.
Matter giving rise to pecuniary interest ¹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) ² [Tick or cross one box]	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control [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]

¹ Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.

² A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest.

Code of Conduct and Procedures for the Administration of the Code of Conduct

SCHEDULE 4: CODE OF CONDUCT AGREEMENT

All Public Officials who are required to abide by the Code of Conduct are required to sign an acknowledgement form that they have read and understood the Code of Conduct and the Administration of the Code of Conduct has been included.



Burwood Council
heritage ▪ progress ▪ pride

CODE OF CONDUCT ACKNOWLEDGEMENT

This is to certify that I, (print
name),

..... (position
title), have read understood Burwood Council's Code of Conduct and agree to abide by its provisions.

Signature.....

Date.....

PART 10 RELATED DOCUMENTS

Council has developed additional policies, corporate practices and procedures to complement the Code of Conduct, these documents provide additional information and provide clear direction on the requirements. These are as follows:

- Agency Information Guide
- A Guide for Completing Disclosure of Interest Returns
- Bribes and Inducements Fact Sheet
- Child Protection Corporate Practice
- Conflict of Interest Policy
- Code of Meeting Practice
- Complaints Management Policy
- Council Charter – Decision Making
- Councillors Access to Information and Councillor Interaction with Council Officers Policy
- Councillor Induction, Briefings & Workshops Policy
- Councillors Expenses and Facilities Policy
- Discrimination, Harassment Bullying Corporate Practice and Grievance Procedures
- Discipline and Formal Warnings Corporate Practice

Code of Conduct and Procedures for the Administration of the Code of Conduct

- Disposal of Council Assets Corporate Practice and Procedures
- Gifts and Benefits Policy
- Fraud and Corruption Prevention Policy
- Fraud and Corruption Prevention Action Plan
- Information Security Corporate Practice
- Motor Vehicle Corporate Practice
- *Public Interest Disclosures Act 1994* – Internal Reporting Policy
- *Public Interest Disclosures Act 1994* - Procedure For Assessing Disclosures and Investigations
- Privacy Management Plan (including Health Records and Information)
- Secondary Employment Corporate Practice
- Statement of Business Ethics
- Use of Council Resources Corporate Practice
- Use of Council Provided Mobile Phones Corporate Practice
- Use and Monitoring of Network, Email and Internet Corporate Practice

PART 11 REVIEW

To be reviewed at within 12 months after the local government election or when changes to legislation occur.

PART 12 CONTACT

If you have any concerns, queries, or would simply like advice or guidance about any aspect of the Code of Conduct, please feel free to contact one of the Council Officers listed below:

- Governance Co-ordinator – Policy on 9911 9910
- Internal Ombudsman (Complaint Co-ordinator) – Breaches on 9911 9808
- General Manager on 9911 9802

Code of Conduct and Procedures for the Administration of the Code of Conduct

PROCEDURES FOR THE ADMINISTRATION OF THE MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW

Code of Conduct and Procedures for the Administration of the Code of Conduct**PART 1 INTRODUCTION**

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

The Model Code of Conduct is made under section 440 of the *Local Government Act 1993* ("the Act") and the *Local Government (General) Regulation 2005* ("the Regulation"). Section 440 of the Act requires every Council (including county Councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct.

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

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

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

Note: In adopting the Model Code Procedures, joint organisations should adapt them to substitute the terms "board" for "Council", "chairperson" for "mayor", "voting representative" for "Councillor" and "executive officer" for "General Manager".

Note: In adopting the Model Code Procedures, county Councils should adapt them to substitute the term "chairperson" for "mayor" and "member" for "Councillor".

Note: Parts 6, 7, 8 and 11 of these procedures apply only to the management of code of conduct complaints about Councillors (including the Mayor) or the General Manager.

PART 2 DEFINITIONS

In these procedures the following terms have the following meanings:

the Act	the <i>Local Government Act 1993</i>
administrator	an administrator of a Council appointed under the Act other than an administrator appointed under section 66
code of conduct	a code of conduct adopted under section 440 of the Act
code of conduct complaint	a complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures
complainant	a person who makes a code of conduct complaint
complainant Councillor	a Councillor who makes a code of conduct complaint
complaints co-ordinator	a person appointed by the General Manager under these procedures as a complaints coordinator – the appointed Complaints Co-ordinator is the Internal Ombudsman.
complaints co-ordinator alternate	a person appointed by the General Manager under these procedures as a complaints coordinator – the appointed

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Alternate Complaints Co-ordinator is the Manager Governance.

conduct reviewer	a person appointed under these procedures to review allegations of breaches of the code of conduct by Councillors or the General Manager
Council	includes county Councils and joint organisations
Council committee	a committee established by a Council comprising of Councillors, staff or other persons that the Council has delegated functions to
Council committee member	a person other than a Councillor or member of staff of a Council who is a member of a Council committee other than a wholly advisory committee
Councillor	any person elected or appointed to civic office, including the Mayor, and includes members and chairpersons of county Councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
Council official	any Councillor, member of staff of Council, administrator, Council committee member, delegate of Council and, for the purposes of clause 4.16 of the Model Code of Conduct, Council adviser
delegate of Council	a person (other than a Councillor or member of staff of a Council) or body, and the individual members of that body, to whom a function of the Council is delegated
external agency	a state government agency such as, but not limited to, the Office, the ICAC, the NSW Ombudsman or the police
General Manager	includes the executive officer of a joint organisation
ICAC	the Independent Commission Against Corruption
joint organisation	a joint organisation established under section 400O of the Act
mayor	includes the chairperson of a county Council or a joint organisation
members of staff of a Council	includes members of staff of county Councils and joint organisations
the Office	the Office of Local Government
investigator	a conduct reviewer
the Regulation	the <i>Local Government (General) Regulation 2005</i>
respondent	a person whose conduct is the subject of investigation by a conduct reviewer under these procedures
wholly advisory	

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committee	a Council committee that the Council has not delegated any functions to
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PART 3 ADMINISTRATIVE FRAMEWORK

The Establishment of a Panel of Conduct Reviewers

The Council must by resolution establish a panel of conduct reviewers.

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

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where the Council is satisfied that all the persons who will be undertaking the functions of a conduct reviewer on behalf of the entity meet the selection and eligibility criteria prescribed under this Part.

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

The Appointment of an Internal Ombudsman to a Panel of Conduct Reviewers

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

The Appointment of Complaints Co-ordinators

- 3.16 The General Manager must appoint a member of staff of the Council or another person (such as, but not limited to, a member of staff of another Council or a member of staff of a joint organisation or other regional body associated with the Council), to act as a complaints coordinator. Where the complaints coordinator is a member of staff of the Council, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.17 The General Manager may appoint other members of staff of the Council or other persons (such as, but not limited to, members of staff of another Council or members of staff of a joint organisation or other regional body associated with the Council), to act as alternates to the complaints co-ordinator.
- 3.18 The General Manager must not undertake the role of complaints co-ordinator.
- 3.19 The person appointed as complaints coordinator or alternate complaints coordinator must

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also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.

3.20 The role of the complaints coordinator is to:

- a. coordinate the management of complaints made under the Council's code of conduct
- b. liaise with and provide administrative support to a conduct reviewer
- c. liaise with the Office and
- d. arrange the annual reporting of code of conduct complaints statistics

Council's Complaints Co-ordinator is the Internal Ombudsman and the Alternate Complaints Co-ordinator is the Manager Governance.

PART 4 HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?

What is a Code of Conduct Complaint?

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

When Must a Code of Conduct Complaint be made?

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

How may a Code of Conduct Complaint about a Council Official Other than the General Manager be Made?

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

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cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.

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

How aay a Code of Conduct Complaint about the General Manager be Made?

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

PART 5 HOW ARE CODE OF CONDUCT COMPLAINTS TO BE MANAGED?

Delegation by General Managers and Mayors of Their Functions under this Part

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

Consideration of Complaints by General Managers and Mayors

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

What Complaints May be Declined at the Outset?

- 5.3 Without limiting any other provision in these procedures, the General Manager or, in the case of a complaint about the General Manager, the Mayor, may decline to deal with a complaint

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under these procedures where they are satisfied that the complaint:

- a. is not a code of conduct complaint
- b. subject to clause 4.5, is not made within 3 months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct
- c. is trivial, frivolous, vexatious or not made in good faith
- d. relates to a matter the substance of which has previously been considered and addressed by the Council and does not warrant further action
- e. is not made in a way that would allow the alleged conduct and any alleged breaches of the Council's code of conduct to be readily identified

How are Code of Conduct Complaints About Staff (Other Than The General Manager) to be Dealt With?

- 5.4 The General Manager is responsible for the management of code of conduct complaints about members of staff of Council (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.5 The General Manager must refer code of conduct complaints about members of staff of Council alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.6 The General Manager may decide to take no action in relation to a code of conduct complaint about a member of staff of Council other than one requiring referral to the Office under clause 5.5 where they consider that no action is warranted in relation to the complaint.
- 5.7 Where the General Manager decides to take no action in relation to a code of conduct complaint about a member of staff of Council, the General Manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.8 Code of conduct complaints about members of staff of Council must be managed in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.9 Sanctions for breaches of the code of conduct by staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

How are Code of Conduct Complaints About Delegates of Council, Council Advisers and Council Committee Members To Be Dealt With?

- 5.10 The General Manager is responsible for the management of code of conduct complaints about delegates of Council and Council committee members (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.11 The General Manager must refer code of conduct complaints about Council advisers, delegates of Council and Council committee members alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.12 The General Manager may decide to take no action in relation to a code of conduct complaint about a delegate of Council or a Council committee member other than one requiring referral to the Office under clause 5.11 where they consider that no action is

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warranted in relation to the complaint.

- 5.13 Where the General Manager decides to take no action in relation to a code of conduct complaint about a delegate of Council or a Council committee member, the General Manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.14 Where the General Manager considers it to be practicable and appropriate to do so, the General Manager may seek to resolve code of conduct complaints about delegates of Council or Council committee members, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the Council's code of conduct.
- 5.15 Where the General Manager resolves a code of conduct complaint under clause 5.14 to the General Manager's satisfaction, the General Manager must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.16 Sanctions for breaches of the code of conduct by delegates of Council and/or Council committee members depend on the severity, scale and importance of the breach and may include one or more of the following:
- a. censure
 - b. requiring the person to apologise to any person or organisation adversely affected by the breach in such a time and form specified by the General Manager
 - c. prosecution for any breach of the law
 - d. removing or restricting the person's delegation
 - e. removing the person from membership of the relevant Council committee
- 5.17 Prior to imposing a sanction against a delegate of Council or a Council committee member under clause 5.16, the General Manager or any person making enquiries on behalf of the General Manager must comply with the requirements of procedural fairness. In particular:
- a. the substance of the allegation (including the relevant provision/s of the Council's code of conduct that the alleged conduct is in breach of) must be put to the person who is the subject of the allegation, and
 - b. the person must be given an opportunity to respond to the allegation, and
 - c. the General Manager must consider the person's response in deciding whether to impose a sanction under clause 5.16.

How are Code of Conduct Complaints About Administrators to be Dealt With?

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

How are Code Of Conduct Complaints About Councillors to be Dealt With?

- 5.20 The General Manager must refer the following code of conduct complaints about Councillors to the Office:
- a. complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct

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- b. complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interest arising from political donations (see section 328B of the Act)
 - c. complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
 - d. complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.21 Where the General Manager refers a complaint to the Office under clause 5.20, the General Manager must notify the complainant of the referral in writing.
- 5.22 The General Manager may decide to take no action in relation to a code of conduct complaint about a Councillor, other than one requiring referral to the Office under clause 5.20, where they consider that no action is warranted in relation to the complaint.
- 5.23 Where the General Manager decides to take no action in relation to a code of conduct complaint about a Councillor, the General Manager must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.24 Where the General Manager considers it to be practicable and appropriate to do so, the General Manager may seek to resolve code of conduct complaints about Councillors, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the Council's code of conduct.
- 5.25 Where the General Manager resolves a code of conduct complaint under clause 5.24 to the General Manager's satisfaction, the General Manager must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.26 The General Manager must refer all code of conduct complaints about Councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaints coordinator.

How are Code Of Conduct Complaints About the General Manager to be Dealt With?

- 5.27 The Mayor must refer the following code of conduct complaints about the General Manager to the Office:
 - a. complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
 - b. complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
 - c. complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49
- 5.27a The governing body of council may in exceptional circumstances suspend the general manager and the Mayor, on behalf of council, is authorised to seek advice from the Office of Local Government should this circumstance arise or is under consideration. **(Burwood Council Clause)**
- 5.28 Where the Mayor refers a complaint to the Office under clause 5.27, the Mayor must notify the complainant of the referral in writing.

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

How are Complaints About Both the General Manager and the Mayor to be Dealt With?

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

Referral of Code of Conduct Complaints to External Agencies

- 5.35 The General Manager, mayor or a conduct reviewer may, at any time, refer a code of conduct complaint to an external agency for its consideration, where they consider such a referral is warranted.
- 5.36 The General Manager, mayor or a conduct reviewer must report to the ICAC any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct.
- 5.37 Where the General Manager, mayor or conduct reviewer refers a complaint to an external agency under clause 5.35, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 5.38 Referral of a matter to an external agency shall finalise consideration of the matter under these procedures unless the Council is subsequently advised otherwise by the referral agency.

Code of Conduct and Procedures for the Administration of the Code of Conduct**Disclosure of the Identity of Complainants**

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

Code of Conduct Complaints Made as Public Interest Disclosures

- 5.45 These procedures do not override the provisions of the *Public Interest Disclosures Act 1994*. Code of conduct complaints that are made as public interest disclosures under that Act are to be managed in accordance with the requirements of that Act, the Council's internal reporting policy, and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.
- 5.46 Where a Councillor makes a code of conduct complaint about another Councillor or the General Manager as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant Councillor must consent in writing to the disclosure of their identity as the complainant.
- 5.47 Where a complainant Councillor declines to consent to the disclosure of their identity as the complainant under clause 5.46, the General Manager or the Mayor must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.

Further information can be found in Council's:

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- *Public Interest Disclosures Act 1994 – Internal Reporting Policy*
- *Public Interest Disclosures Act 1994 - Procedure For Assessing Disclosures and Investigations*

Special Complaints Management Arrangements

- 5.48 The General Manager may request in writing that the Office enter into a special complaints management arrangement with the Council in relation to code of conduct complaints made by or about a person or persons.
- 5.49 Where the Office receives a request under clause 5.48, it may agree to enter into a special complaints management arrangement if it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:
- a. imposed an undue and disproportionate cost burden on the Council's administration of its code of conduct
 - b. impeded or disrupted the effective administration by the Council of its code of conduct
 - c. impeded or disrupted the effective functioning of the Council
- 5.50 A special complaints management arrangement must be in writing and must specify the following:
- a. the code of conduct complaints the arrangement relates to
 - b. the period that the arrangement will be in force
- 5.51 The Office may, by notice in writing, amend or terminate a special complaints management arrangement at any time.
- 5.52 While a special complaints management arrangement is in force, an officer of the Office (the assessing OLG officer) must undertake the preliminary assessment of the code of conduct complaints specified in the arrangement in accordance with the requirements of Part 6 of these procedures.
- 5.53 Where, following a preliminary assessment, the assessing OLG officer determines that a code of conduct complaint warrants investigation by a conduct reviewer, the assessing OLG officer shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing OLG officer.
- 5.54 Prior to the expiry of a special complaints management arrangement, the Office may, at the request of the General Manager, review the arrangement to determine whether it should be renewed or amended.
- 5.55 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.54.

PART 6 PRELIMINARY ASSESSMENT OF CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS OR THE GENERAL MANAGER BY CONDUCT REVIEWERS**Referral of Code of Conduct Complaints About Councillors or the General Manager to Conduct Reviewers**

- 6.1 The complaints coordinator must refer all code of conduct complaints about Councillors or the General Manager that have not been referred to an external agency or declined or resolved by the General Manager, mayor or their delegate and that have been referred to

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them under clauses 5.26 or 5.33, to a conduct reviewer within 21 days of receipt of the complaint by the General Manager or the Mayor.

6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:

- a. a panel of conduct reviewers established by the Council
- b. a panel of conduct reviewers established by an organisation approved by the Chief Executive of the Office

6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.

Further information can be found in Council's:

- *Public Interest Disclosures Act 1994* – Internal Reporting Policy
- *Public Interest Disclosures Act 1994* - Procedure For Assessing Disclosures and Investigations

6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:

- a. they have a conflict of interest in relation to the matter referred to them
- b. a reasonable apprehension of bias arises in relation to their consideration of the matter
- c. they or their employer has entered into one or more contracts with the Council (other than contracts relating to the exercise of their functions as a conduct reviewer) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a value that, when aggregated, exceeds \$100,000
- d. at the time of the referral, they or their employer are the Council's legal service provider or are a member of a panel of legal service providers appointed by the Council

6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 5.2 of the Model Code of Conduct).

6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.

6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the Council, including any information about previous proven breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.

6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer, and advise which conduct reviewer the matter has been referred to.

6.9 Conduct reviewers must comply with these procedures in their consideration of matters that have been referred to them and exercise their functions in a diligent and timely manner.

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- 6.10 The complaints coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the complaints coordinator is satisfied that the conduct reviewer has failed to:
- comply with these procedures in their consideration of the matter
 - comply with a lawful and reasonable request by the complaints co-ordinator
 - exercise their functions in a timely or satisfactory manner
- 6.11 Where the complaints coordinator terminates a referral to a conduct reviewer under clause 6.10, they must notify the complainant and any other affected person in writing of their decision and the reasons for it and advise them which conduct reviewer the matter has been referred to instead.

PRELIMINARY ASSESSMENT OF CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS OR THE GENERAL MANAGER BY A CONDUCT REVIEWER

- 6.12 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.
- 6.13 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:
- to take no action
 - to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - to refer the matter back to the General Manager or, in the case of a complaint about the General Manager, the Mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - to refer the matter to an external agency
 - to investigate the matter
- 6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.
- 6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.
- 6.16 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.
- 6.18 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.
- 6.19 The resolution of a code of conduct complaint under clause 6.13, paragraphs (b) or (c) is not

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to be taken as a determination that there has been a breach of the Council's code of conduct.

- 6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.
- 6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:
- a. that the complaint is a code of conduct complaint for the purposes of these procedures
 - b. that the alleged conduct is sufficiently serious to warrant investigation
 - c. that the matter is one that could not or should not be resolved by alternative means
- 6.23 In determining whether a matter is sufficiently serious to warrant investigation, the conduct reviewer is to consider the following:
- a. the harm or cost that the alleged conduct has caused to any affected individuals and/or the Council
 - b. the likely impact of the alleged conduct on the reputation of the Council and public confidence in it
 - c. whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
 - d. any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.24 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator and notify the complaints coordinator in writing of the outcome of their assessment.
- 6.25 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.

Referral Back to the General Manager or Mayor for Resolution

- 6.26 Where the conduct reviewer determines to refer a matter back to the General Manager or to the Mayor to be resolved by alternative and appropriate means, they must write to the General Manager or, in the case of a complaint about the General Manager, to the Mayor, recommending the means by which the complaint may be resolved.
- 6.27 The conduct reviewer must consult with the General Manager or mayor prior to referring a matter back to them under clause 6.13(c).
- 6.28 The General Manager or mayor may decline to accept the conduct reviewer's recommendation. In such cases, the conduct reviewer may determine to deal with the complaint by other means under clause 6.13.
- 6.29 Where the conduct reviewer refers a matter back to the General Manager or mayor under clause 6.13(c), the General Manager or, in the case of a complaint about the General

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Manager, the Mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.

- 6.30 Where the conduct reviewer refers a matter back to the General Manager or mayor under clause 6.13(c), the General Manager, or, in the case of a complaint about the General Manager, the Mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

Complaints Assessment Criteria

- 6.31 In undertaking the preliminary assessment of a complaint, the conduct reviewer must have regard to the following considerations:
- a. whether the complaint is a code of conduct complaint for the purpose of these procedures
 - b. whether the complaint has been made in a timely manner in accordance with clause 4.4, and if not, whether the allegations are sufficiently serious for compelling grounds to exist for the matter to be dealt with under the Council's code of conduct
 - c. whether the complaint is trivial, frivolous, vexatious or not made in good faith
 - d. whether the complaint discloses prima facie evidence of conduct that, if proven, would constitute a breach of the code of conduct
 - e. whether the complaint raises issues that would be more appropriately dealt with by an external agency
 - f. whether there is or was an alternative and satisfactory means of redress available in relation to the conduct complained of
 - g. whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - h. whether the issue/s giving rise to the complaint have previously been addressed or resolved
 - i. any previous proven breaches of the Council's code of conduct
 - j. whether the conduct complained of forms part of an ongoing pattern of behaviour
 - k. whether there were mitigating circumstances giving rise to the conduct complained of
 - l. the seriousness of the alleged conduct (having regard to the criteria specified in clause 6.23)
 - m. the significance of the conduct or the impact of the conduct for the Council
 - n. how much time has passed since the alleged conduct occurred
 - o. such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

PART 7 INVESTIGATIONS OF CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS OR THE GENERAL MANAGER

What matters may a Conduct Reviewer Investigate?

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

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by an investigator under clause 7.2 as if it were a new code of conduct complaint in accordance with these procedures.

How are Investigations to be commenced?

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

Written and Oral Submissions

- 7.9 Where the respondent or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 7.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 7.11 Prior to preparing a draft report, the investigator must give the respondent an opportunity to address the investigator on the matter being investigated. The respondent may do so in person or by telephone or other electronic means.

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- 7.12 Where the respondent fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the respondent.
- 7.13 Where the respondent accepts the opportunity to address the investigator in person, they may have a support person or legal adviser in attendance. The support person or legal adviser will act in an advisory or support role to the respondent only. They must not speak on behalf of the respondent or otherwise interfere with or disrupt proceedings.
- 7.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

How are Investigations to be conducted?

- 7.15 Investigations are to be undertaken without undue delay.
- 7.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 7.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.
- 7.18 Investigators may seek such advice or expert guidance that may be reasonably necessary to assist them with their investigation or the conduct of their investigation.
- 7.19 An investigator may request that the complaints coordinator provide such further information that the investigator considers may be reasonably necessary for them to establish the facts of the matter. The complaints coordinator will, as far as is reasonably practicable, provide the information requested by the investigator.

Further information can be found in Council's *Public Interest Disclosures Act 1994 - Procedure For Assessing Disclosures and Investigations*.

Referral or Resolution of a matter after the Commencement of an Investigation

- 7.20 At any time after an investigator has issued a notice of investigation and before they have issued a draft report, an investigator may determine to:
- resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - refer the matter to the General Manager, or, in the case of a complaint about the General Manager, to the Mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - refer the matter to an external agency
- 7.21 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they must do so in accordance with the requirements of Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.
- 7.22 The resolution of a code of conduct complaint under clause 7.20, paragraphs (a) or (b) is not to be taken as a determination that there has been a breach of the Council's code of conduct.

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- 7.23 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they may by written notice to the respondent, the complainant, the complaints coordinator and the General Manager, or in the case of a complaint about the General Manager, to the respondent, the complainant, the complaints coordinator and the Mayor, discontinue their investigation of the matter.
- 7.24 Where the investigator discontinues their investigation of a matter under clause 7.23, this shall finalise the consideration of the matter under these procedures.
- 7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 7.20 or to discontinue their investigation except as may be specifically required under these procedures.

Draft Investigation Reports

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

Final Investigation Reports

- 7.33 Where an investigator issues a notice of investigation they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.
- 7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 7.35 The investigator's final report must:

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

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

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

Consideration of the Final Investigation Report by Council

- 7.47 The role of the Council in relation to a final investigation report is to impose a sanction if the investigator has determined that there has been a breach of the code of conduct and has made a recommendation in their final report under clause 7.36, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)).
- 7.48 The Council is to close its meeting to the public to consider the final investigation report in cases where it is permitted to do so under section 10A of the Act.
- 7.49 Where the complainant is a Councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant Councillor may absent themselves without making any disclosure of interest in relation to the matter unless otherwise required to do so under the code of conduct.
- 7.50 Prior to imposing a sanction, the Council must provide the respondent with an opportunity to make a submission to the Council. A submission may be made orally or in writing. The respondent is to confine their submission to addressing the investigator's recommendation/s.
- 7.51 Once the respondent has made their submission they must absent themselves from the meeting and, where they are a Councillor, take no part in any discussion or voting on the matter.
- 7.52 The Council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.
- 7.53 Prior to imposing a sanction, the Council may by resolution:
- a. request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report
 - b. seek an opinion from the Office in relation to the report
- 7.54 The Council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Office.
- 7.55 The investigator may make additional enquiries for the purpose of preparing a supplementary report.

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- 7.56 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the Council and the respondent.
- 7.57 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.
- 7.58 The Council is only required to provide the respondent a further opportunity to make an oral or written submission on a supplementary report if the supplementary report contains new information that is adverse to them.
- 7.59 A Council may by resolution impose one or more of the following sanctions on a respondent:
- a. that the respondent undertake any training or other education relevant to the conduct giving rise to the breach
 - b. that the respondent be counselled for their conduct
 - c. that the respondent be removed from membership of a committee of the Council or any other body or organisation that the respondent serves on as the Council's representative
 - d. that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the resolution
 - e. that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the resolution
 - f. that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the meeting
 - g. in the case of a breach by the General Manager, that action be taken under the General Manager's contract for the breach
 - h. in the case of a breach by a Councillor, that the Councillor be formally censured for the breach under section 440G of the Act
 - i. in the case of a breach by a Councillor:
 - i. that the Councillor be formally censured for the breach under section 440G of the Act, and
 - ii. that the matter be referred to the Office for further action under the misconduct provisions of the Act.
- 7.60 The Council is not obliged to adopt the investigator's recommendation/s. Where the Council proposes not to adopt one or more of the investigator's recommendation/s, the Council must resolve not to adopt the recommendation/s and state in its resolution the reasons for its decision.
- 7.61 Where the Council proposes to impose a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator in their final report, the Council must state in its resolution the reasons for its decision.
- 7.62 Where the Council resolves not to adopt the investigator's recommendation/s or imposes a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator, the complaints coordinator must notify the Office of the Council's decision and the reasons for it.

PART 8 OVERSIGHT AND RIGHTS OF REVIEW

The Office's Powers of Review

- 8.1 The Office may, at any time, whether or not in response to a request, review the consideration of a matter under a Council's code of conduct where it is concerned that a

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person has failed to comply with a requirement prescribed under these procedures or has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct in their consideration of a matter.

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

Complaints about Conduct Reviewers

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

Practice Rulings

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

Review of Decisions to Impose Sanctions

- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.59, paragraph (i), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.
- 8.12 A review under clause 8.11 may be sought on the following grounds:
- a. that the investigator has failed to comply with a requirement under these procedures
 - b. that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct
 - c. that in imposing its sanction, the Council has failed to comply with a requirement under these procedures
- 8.13 A request for a review made under clause 8.11 must be made in writing and must specify the grounds upon which the person believes the investigator or the Council has erred.

Code of Conduct and Procedures for the Administration of the Code of Conduct

- 8.14 The Office may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.
- 8.15 The Office may undertake a review of a matter without receiving a request under clause 8.11.
- 8.16 The Office will undertake a review of the matter on the papers. However, the Office may request that the complaints coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Office.
- 8.17 Where a person requests a review under clause 8.11, the Office may direct the Council to defer any action to implement a sanction. The Council must comply with a direction to defer action by the Office.
- 8.18 The Office must notify the person who requested the review and the complaints coordinator of the outcome of the Office's review in writing and the reasons for its decision. In doing so, the Office may comment on any other matters the Office considers to be relevant.
- 8.19 Where the Office considers that the investigator or the Council has erred, the Office may recommend that a decision to impose a sanction under these procedures be reviewed.
- 8.20 In the case of a sanction implemented by the General Manager or mayor under clause 7.45, where the Office recommends that the decision to impose a sanction be reviewed:
- a. the complaints coordinator must provide a copy of the Office's determination in relation to the matter to the General Manager or the Mayor, and
 - b. the General Manager or mayor must review any action taken by them to implement the sanction, and
 - c. the General Manager or mayor must consider the Office's recommendation in doing so.
- 8.21 In the case of a sanction imposed by the Council by resolution under clause 7.59, where the Office recommends that the decision to impose a sanction be reviewed:
- a. the complaints coordinator must, where practicable, arrange for the Office's determination to be tabled at the next ordinary Council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary Council meeting following the election, and
 - b. the Council must:
 - i. review its decision to impose the sanction
 - ii. consider the Office's recommendation in doing so
 - iii. resolve to either rescind or reaffirm its previous resolution in relation to the matter
- 8.22 Where, having reviewed its previous decision in relation to a matter under clause 8.21, the Council resolves to reaffirm its previous decision, the Council must state in its resolution its reasons for doing so.

PART 9 PROCEDURAL IRREGULARITIES

- 9.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct, except as may be otherwise specifically provided under the code of conduct.
- 9.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:

Code of Conduct and Procedures for the Administration of the Code of Conduct

- a. the non-compliance is isolated and/or minor in nature
- b. reasonable steps are taken to correct the non-compliance
- c. reasonable steps are taken to address the consequences of the non-compliance

PART 10 PRACTICE DIRECTIONS

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

PART 11 REPORTING STATISTICS ON CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS AND THE GENERAL MANAGER

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

PART 12 CONFIDENTIALITY

- 12.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.
- 12.2 Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or purported to make, the General Manager or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future code of conduct complaint they make or purport to make.
- 12.3 Prior to seeking the Office's consent under clause 12.2, the General Manager or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission within at least 14 days or such other

Code of Conduct and Procedures for the Administration of the Code of Conduct

period specified by the General Manager or their delegate, and consider any submission made by them.

- 12.4 In giving its consent under clause 12.2, the Office must consider any submission made by the complainant to the General Manager or their delegate.
- 12.5 The General Manager or their delegate must give written notice of a determination made under clause 12.2 to:
- a. the complainant
 - b. the complaints coordinator
 - c. the Office
 - d. any other person the General Manager or their delegate considers should be notified of the determination
- 12.6 Any requirement under these procedures that a complainant is to be provided with information about a code of conduct complaint that they have made or purported to make, will not apply to a complainant the subject of a determination made by the General Manager or their delegate under clause 12.2.
- 12.7 Clause 12.6 does not override any entitlement a person may have to access to Council information under the Government Information (Public Access) Act 2009 or to receive information under the Public Interest Disclosures Act 1994 in relation to a complaint they have made.

FREQUENTLY ASKED QUESTIONS**What is the purpose of the Model Code of Conduct?**

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

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

How is the Model Code of Conduct prescribed?

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

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

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

How are the Procedures prescribed?

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

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

Yes.

Who does the Model Code of Conduct apply to?

Section 440 of the LGA specifies the classes of council officials that a Model Code of Conduct prescribed under the Regulation may apply to. Under section 440, a Model Code of Conduct may be prescribed that applies to councillors, members of staff of

Frequently Asked Questions

councils and delegates of councils. For this reason, the Model Code of Conduct prescribed under the Regulation only applies to councillors, council staff and delegates of councils (including members of committees that are delegates of councils). These are all defined as "council officials" for the purposes of the Model Code of Conduct and the Procedures.

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

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

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

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

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

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

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

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

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

In adopting a code of conduct based on the Model Code of Conduct, councils may amend the provisions of the Model Code of Conduct and the associated Procedures to extend their application to contractors, community members of wholly advisory committees and/or volunteers. In doing so, to be effective, councils will also need to make it a condition of a contractor's engagement or volunteer's or advisory committee member's appointment that they comply with the council's adopted code of conduct.

Frequently Asked Questions

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

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

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

Why was the new Model Code of Conduct developed?

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

Consolidating all ethical standards into a single instrument will:

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

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

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

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

- in late 2016, submissions were invited suggesting changes and improvements to the existing Model Code of Conduct and Procedures
- based on the feedback received from the first round of consultation, consultation drafts of the proposed new Model Code of Conduct and Procedures were developed and issued for comment.

Frequently Asked Questions

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

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

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

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

Other key changes include:

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

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

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

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

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

- the role of the general manager in the receipt and initial management of code of conduct complaints about councillors
- the ability of complainants, who are unhappy with decisions of the council, to misuse councils’ codes of conduct by repackaging routine complaints as “code of conduct complaints”
- the lack of recourse against members of the public who inappropriately disclose information about complaints they have made under a council’s code of conduct.

These changes are outlined below:

Frequently Asked Questions

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

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

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

In particular:

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

This offers a number potential benefits:

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

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

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

Frequently Asked Questions

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

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

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

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

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

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

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

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

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

Frequently Asked Questions

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

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

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

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

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

(ITEM 20/19) ADOPTION - DRAFT CODE OF MEETING PRACTICE AND ADOPTION - REVISED COUNCILLOR INDUCTION, BRIEFINGS AND WORKSHOPS POLICY

File No: 19/2433

REPORT BY DEPUTY GENERAL MANAGER CORPORATE, GOVERNANCE & COMMUNITY

Summary

The Office of Local Government (the Office) issued the new Model Code of Meeting Practice for Local Councils in NSW (the Model Code) on 18 December 2018 (circular 18-45). Council is required to have the new Model Code in place by 14 June 2019.

The draft Code of Meeting Practice (the draft Code) is now submitted to the Council for endorsement prior to placement on public exhibition.

The Councillor Induction, Briefings and Workshops Policy has also been reviewed in line with the Model Code and is also submitted to the Council for endorsement.

Operational Plan Objective

2.1.3 Ensure transparency and accountability in decision making

Background

Model Code of Meeting Practice

The Office issued the new Model Code of Meeting Practice for Local Councils in NSW on 18 December 2018 which requires Council to adopt a code by 14 June 2019.

The Model Code is made under Section 360 of the *Local Government Act 1993* (the Act) and Clause 232 of the *Local Government (General) Regulation 2005* (the Regulation).

All Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Code issued by the Office.

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

Council and committees of Council of which all the members are Councillors must conduct its meetings in accordance with the Code of Meeting Practice adopted by the Council.

Councillor Induction, Briefings and Workshops Policy

The Councillor Induction, Briefings and Workshop Policy sets policy on decision making at these types of meetings, attendees and detailed information on the differences of each meeting type.

Proposal

Model Code of Meeting Practice

The Office has incorporated the amendments to the Act in August 2016 by the *Local Government (Governance and Planning) Act 2016* (the Phase 1 amendments) which provide for a model code of meeting practice to be prescribed by the Regulation. This was prescribed on 14 December 2018.

The Office conducted an extensive consultation process, to which Burwood Council made a submission. The new Model Code has now been prescribed under the *Local Government (General) Regulation 2005* and the existing meeting provisions in the Regulation have been repealed.

The Model Code has two elements:

1. It contains mandatory provisions (**in black**) they reflect the existing meeting provisions of the Act and an update and enhancement of the meeting provisions previously prescribed under the Regulation to reflect contemporary meetings practice by councils.
2. It contains non-mandatory provisions (**in red**) that cover areas of meetings practice that are common to most councils but where there may be a need for some variation in practice between councils based on local circumstances. The non-mandatory provision also operate to set a benchmark based on what the Office sees as being best practice for the relevant area of practice.

The Model Code also applies to meetings of the boards of joint organisations and county councils. These have been deleted from the proposed code as Burwood Council does not operate any boards of joint organisations nor is a county council.

The draft Code also incorporates Burwood Council clauses (**in green**) which ensure greater community participation and the ability for Councillors to raise questions at the meeting (Questions without Notice).

The General Manager, the Deputy General Manager Corporate, Governance & Community and the Manager Governance workshopped the Model Code on Tuesday 15 December 2018 to discuss the Model Code and all directives of the General Manager have been incorporated.

The draft Code of Meeting Practice is now submitted to Council for endorsement and placement on Public Exhibition.

Councillor Induction, Briefings and Workshops Policy

The revised Councillor Induction, Briefings and Workshops Policy has been reviewed and the new Pre-council Meeting Briefing Sessions are now incorporated into the Policy. All additions are in **red**.

There is no requirement for the revised Councillor Induction, Briefings and Workshops Policy to be placed on public exhibition. As the amendments are consistent with the Model Code and adoption should occur at the same time as the draft Code of Meeting Practice to that any amendments are consistent with public comment.

Webcasting

Council is required to commence webcasting meetings of the Council and committees of which all members are councillors from 14 December 2019. This can be done by audio or video recording of the meeting and broadcasting through the Council website.

The costs of webcasting the meetings are as follows:

Equipment Setup \$ (EX GST)	Monthly Service fee \$ (EX GST)
\$7,150.00	\$1,260.00

Planning or Policy Implications

Section 361 of the Act - Preparation, Public Notice and Exhibition states that:

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

In accordance with Section 361 the Code of Meeting Practice will be placed on public exhibition as per the requirements.

The draft Code of Meeting Practice will be made available on Council's website and the Customer Service Centre during the public exhibition period.

A further report will be forwarded to Council after the public submission period for the purpose of adopting the draft Code of Meeting Practice and to adopt the revised Councillor Induction, Briefings and Workshops Policy.

Once adopted by the Council the Code of Meeting Practice and the Councillor Induction, Briefing and Workshops Policy will be published on Council's website and the Councillor Portal. Council Officers will be advised via the internal Council newsletter.

Financial Implications

Public Exhibition costs are within the Governance budget.

Conclusion

The draft Code of Meeting Practice complies with the requirements of the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* and the Model Code issued by the Office of Local Government. The revised Councillor Induction, Briefings and Workshops Policy also complies with all requirements. It is now in order for Council to endorse the draft Code of Meeting Practice for public exhibition and to endorse the revised Councillor Induction, Briefings and Workshops Policy.

Recommendation(s)

1. That Council endorse the draft Code of Meeting Practice for placement on public exhibition in line with the requirements of Section 361 of the *Local Government Act 1993*.
2. That at the expiration of the 42 days, after the public comment period, a further report be tabled to Council for the adoption of the draft Code of Meeting Practice including the revised Councillor Induction, Briefings and Workshops Policy.

Attachments

- 1 [↓](#) draft - Code of Meeting Practice
- 2 [↓](#) revised - Councillor Induction, Briefings and Workshops Policy



Burwood Council

heritage ▪ progress ▪ pride

DRAFT – CODE OF MEETING PRACTICE

Model Code of Meeting Practice for Local Council – Office of Local Government

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1. INTRODUCTION

This Code of Meeting Practice for Local Councils in NSW (the Code) is made under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).

The Code applies to all meetings of Burwood Council and Committees of which all the members are Councillors (committees of Council). Council committees whose members include persons other than Councillors may adopt their own rules for meetings unless the Council determines otherwise.

All Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code issued by the Office of Local Government.

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

A Council and a committee of the Council of which all the members are Councillors must conduct its meetings in accordance with the Code of Meeting Practice adopted by the Council.

The Model Meeting Code also applies to meetings of the boards of joint organisations. Burwood Council does not have boards of joint organisations, therefore, the provisions relating to these have been deleted.

2. MEETING PRINCIPLES

2.1 Council and committee meetings should be:

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

3. BEFORE THE MEETING

Timing of Ordinary Council Meetings

3.1 Ordinary Meetings of the Council will be held on the following occasions:

- On the 4th Tuesday of each month (February to December) at 6.00 pm in the Council Chamber, Administration Building, Suite 1, Level 2, 1-17 Elsie Street, Burwood and in accordance with Council's adopted meeting schedule.

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

Extraordinary Meetings

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

Note: Clause 3.3 reflects section 366 of the Act.

Notice to the Public of Council Meetings

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

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

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

Notice to Councillors of Ordinary Council Meetings

- 3.7 The General Manager must send to each Councillor, at least three days before each meeting of the Council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.

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

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

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

Notice to Councillors of Extraordinary Meetings

- 3.9 Notice of less than three days may be given to Councillors of an extraordinary meeting of the Council in cases of emergency.

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

Giving Notice of Business to be considered at Council Meetings

- 3.10 A Councillor may give notice of any business they wish to be considered by the Council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted to the General Manager by the Monday two weeks before the meeting is to be held.
- 3.11 A Councillor may, in writing to the General Manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.

- 3.12 If the General Manager considers that a notice of motion submitted by a Councillor for consideration at an ordinary meeting of the Council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the General Manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the Council.
- 3.13 A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the Council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the General Manager must either:
- prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the Council
 - by written notice sent to all Councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the Council to such a date specified in the notice, pending the preparation of such a report.

Questions with Notice

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

Questions without Notice (Burwood Council Clause)

- 3.16a Councillors are permitted to ask a maximum of three questions per Council Meeting. The Regulation which states that Council must not transact business unless due notice has been given that is three days prior to the Council Meeting. Councillors are not to address personalities.
- 3.16b Any Questions without Notice to Council Officers which in the opinion of the Chair with the referral to the General Manager that requires action involving the employment of unbudgeted resources shall not be allowed (but rather should be the basis of a Notice of Motion(s) duly moved under the Code of Meeting Practice).
- 3.16c Councillors are required to submit their question(s) to the Chair in writing as at the agenda item 'Question without Notice' when it comes to the forum. Councillors must word question(s), succinctly and without argument and may contain supporting information.
- 3.16d The Chair (at the appropriate time during the meeting) will read out the name of the Councillor asking the question and the question itself. No discussion is to take place. Questions without Notice will be recorded in the Minutes of Council Meetings.
- 3.16e Answers will not be provided at the Meeting, however, they will be provided to all

Councillors within ten days after the meeting. An Information Item with the answers will be submitted to the following Council Meeting for public information.

Agenda and Business Papers for Ordinary Meetings

- 3.17 The General Manager must cause the agenda for a meeting of the Council or a committee of the Council to be prepared as soon as practicable before the meeting.
- 3.18 The General Manager must ensure that the agenda for an ordinary meeting of the Council states:
- all matters to be dealt with arising out of the proceedings of previous meetings of the Council
 - if the Mayor is the Chairperson – any matter or topic that the Chairperson proposes, at the time when the agenda is prepared, to put to the meeting
 - all matters, including matters that are the subject of Officers reports and reports of committees, to be considered at the meeting
 - any business of which due notice has been given under clause 3.10.
- 3.19 Nothing in clause 3.18 limits the powers of the Mayor to put a Mayoral Minute to a meeting under clause 8.6.
- 3.20 The General Manager must not include in the agenda for a meeting of the Council any business of which due notice has been given if, in the opinion of the General Manager, the business is, or the implementation of the business would be, unlawful. The General Manager must report, without giving details of the item of business, any such exclusion to the next meeting of the Council.
- 3.21 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the General Manager, is likely to take place when the meeting is closed to the public, the General Manager must ensure that the agenda of the meeting:
- identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public)
 - states the grounds under section 10A(2) of the Act relevant to the item of business.

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

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

Availability of the Agenda and Business Papers to the Public

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

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

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

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

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

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

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

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

Agenda and Business Papers for Extraordinary Meetings

- 3.27 The General Manager must ensure that the agenda for an extraordinary meeting of the Council deals only with the matters stated in the notice of the meeting.

- 3.28 Despite clause 3.27, business may be considered at an extraordinary meeting of the Council, even though due notice of the business has not been given, if:

- a. a motion is passed to have the business considered at the meeting
- b. the business to be considered is ruled by the Chairperson to be of great urgency on the grounds that it requires a decision by the Council before the next scheduled ordinary meeting of the Council

- 3.29 A motion moved under clause 3.28(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.

- 3.30 Despite clauses 9.20–9.30, only the mover of a motion moved under clause 3.28(a) can speak to the motion before it is put.

- 3.31 A motion of dissent cannot be moved against a ruling of the Chairperson under clause 3.28(b) on whether a matter is of great urgency.

Pre-Meeting Briefing Sessions

- 3.32 Prior to each ordinary meeting of the Council, the General Manager may arrange a pre-meeting briefing session to brief Councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the Council and meetings of committees of the Council.

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

- 3.34 The General Manager or a member of Officers nominated by the General Manager is to preside at pre-meeting briefing sessions.

- 3.36 Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal Council or committee meeting at which the item of business is to be considered.

- 3.37 Councillors (including the Mayor) must declare and manage any conflicts of interest they

may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a Council or committee meeting. The Council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the Councillor who made the declaration.

4. COMING TOGETHER

Attendance by Councillors at Meetings

- 4.1 All Councillors must make reasonable efforts to attend meetings of the Council and of committees of the Council of which they are members.

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

- 4.2 A Councillor cannot participate in a meeting of the Council or of a committee of the Council unless personally present at the meeting.
- 4.4 Where a Councillor is unable to attend one or more ordinary meetings of the Council, the Councillor should request that the Council grant them a leave of absence from those meetings. This clause does not prevent a Councillor from making an apology if they are unable to attend a meeting. However the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.
- 4.5 A Councillor's request for leave of absence from Council meetings should, if practicable, identify (by date) the meetings from which the Councillor intends to be absent and the grounds upon which the leave of absence is being sought.
- 4.6 The Council must act reasonably when considering whether to grant a Councillor's request for a leave of absence.
- 4.7 A Councillor's civic office will become vacant if the Councillor is absent from three consecutive ordinary meetings of the Council without prior leave of the Council, or leave granted by the Council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the Council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

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

- 4.8 A Councillor who intends to attend a meeting of the Council despite having been granted a leave of absence should, if practicable, give the General Manager at least two (2) days' notice of their intention to attend.

The Quorum for a Meeting

- 4.9 The quorum for a meeting of the Council is a majority of the Councillors of the Council who hold office at that time and are not suspended from office (a quorum is four Councillors).

Note: Clause 4.9 reflects section 368(1) of the Act.

- 4.10 Clause 4.9 does not apply if the quorum is required to be determined in accordance with

directions of the Minister in a performance improvement order issued in respect of the Council.

Note: Clause 4.10 reflects section 368(2) of the Act.

- 4.11 A meeting of the Council must be adjourned if a quorum is not present:
- at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
 - within half an hour after the time designated for the holding of the meeting, or
 - at any time during the meeting.
- 4.12 In either case, the meeting must be adjourned to a time, date and place fixed:
- by the Chairperson, or
 - in the Chairperson's absence, by the majority of the Councillors present, or
 - failing that, by the General Manager.
- 4.13 The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the Councillors present.
- 4.14 Where, prior to the commencement of a meeting, it becomes apparent that the safety and welfare of Councillors, Council Officers and members of the public may be put at risk by attending the meeting because of a natural disaster (such as, but not limited to flood or bushfire), the Mayor may, in consultation with the General Manager and, as far as is practicable, with each Councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the Council's website and in such other manner that the Council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.
- 4.15 Where a meeting is cancelled under clause 4.14, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the Council or at an extraordinary meeting called under clause 3.3.

Entitlement of the Public to Attend Council Meetings

- 4.16 Everyone is entitled to attend a meeting of the Council and committees of the Council. The Council must ensure that all meetings of the Council and committees of the Council are open to the public.
- Note: Clause 4.16 reflects section 10(1) of the Act.**
- 4.17 Clause 4.16 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.
- 4.18 A person (whether a Councillor or another person) is not entitled to be present at a meeting of the Council or a committee of the Council if expelled from the meeting:
- by a resolution of the meeting, or
 - by the person presiding at the meeting if the Council has, by resolution, authorised the person presiding to exercise the power of expulsion.

Note: Clause 4.18 reflects section 10(2) of the Act.

Addressing of Council and Committee Meetings by Members of the Public (Burwood Council Clause)**Open Forum**

- 4.18a The Public may address Council at an Ordinary Council Meeting on a matter that is not on the agenda of that meeting. The Forum takes place after the adoption of the minutes of the previous meeting.
- 4.18b Members of the Public are required to either register fifteen minutes prior to the Meeting or by contacting one of Council's Governance Team Members.

The guidelines, which apply to public address, are:

1. a time limit of three minutes per speaker
2. discussion, debate or questions involving Councillors or Council Officers are not permitted
3. the subject matter only is to be discussed
4. personalities are not to be addressed

Address by the Public on Agenda Items

- 4.18c The Public may address items listed on the Council or Committee Agendas.
- 4.18d Persons from the Public gallery may address the Council or Council Committee and answer questions from Council or Council Committee Members. Persons who have registered will be invited to speak at the beginning of the item before the Council or Committee.
- 4.18e Members of the Public are required to either register 15 minutes prior to the Meeting or by contacting one of Council's Governance Team Members.

The guidelines, which apply to public address, are:

1. a time limit of three minutes per speaker
2. discussion, debate or questions involving Councillors or Council Officers are not permitted
3. the subject matter only is to be discussed
4. personalities are not to be addressed

- 4.18f The Council or Council Committee can grant an extension of time for a speaker by a motion to that effect being put and carried.
- 4.18g The Council may further resolve to alter the order of business of the meeting and bring forward the matter for consideration at the conclusion of the address, by means of a procedural motion.

Webcasting of Meetings

- 4.19 All meetings of the Council and committees of the Council are to be webcast on the Council's website.

Note: Councils will be required to webcast meetings from 14 December 2019. Councils that do not currently webcast meetings should take steps to ensure that meetings are webcast by 14 December 2019.

Note: Councils must include supplementary provisions in their adopted codes of

meeting practice that specify whether meetings are to be livestreamed or recordings of meetings uploaded on the Council's website at a later time. The supplementary provisions must also specify whether the webcast is to comprise of an audio visual recording of the meeting or an audio recording of the meeting.

- 4.20 Clause 4.19 does not apply to parts of a meeting that have been closed to the public under section 10A of the Act.
- 4.21 At the start of each meeting the Chairperson is to make a statement informing those in attendance that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements.
- 4.22 A recording of each meeting of the Council and committee of the Council is to be retained on the Council's website for **indefinitely**. Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

Attendance of the General Manager and Other Officers at Meetings

- 4.23 The General Manager is entitled to attend, but not to vote at, a meeting of the Council or a meeting of a committee of the Council of which all of the members are Councillors.

Note: Clause 4.23 reflects section 376(1) of the Act.

- 4.24 The General Manager is entitled to attend a meeting of any other committee of the Council and may, if a member of the committee, exercise a vote.

Note: Clause 4.24 reflects section 376(2) of the Act.

- 4.25 The General Manager may be excluded from a meeting of the Council or a committee while the Council or committee deals with a matter relating to the standard of performance of the General Manager or the terms of employment of the General Manager.

Note: Clause 4.25 reflects section 376(3) of the Act.

- 4.26 The attendance of other Council Officers at a meeting, (other than as members of the public) shall be with the approval of the General Manager.

5. THE CHAIRPERSON

The Chairperson at Meetings

- 5.1 The Mayor, or at the request of or in the absence of the Mayor, the Deputy Mayor (if any) presides at meetings of the Council.

Note: Clause 5.1 reflects section 369(1) of the Act.

- 5.2 If the Mayor and the Deputy Mayor (if any) are absent, a Councillor is elected to chair the meeting by the Councillors present presides at a meeting of the Council.

Note: Clause 5.2 reflects section 369(2) of the Act.

Election of the Chairperson in the Absence of the Mayor and Deputy Mayor

- 5.3 If no Chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a Chairperson to preside at the meeting.

- 5.4 The election of a Chairperson must be conducted:
- by the General Manager or, in their absence, an employee of the Council designated by the General Manager to conduct the election, or
 - by the person who called the meeting or a person acting on their behalf if neither the General Manager nor a designated employee is present at the meeting, or if there is no General Manager or designated employee.
- 5.5 If, at an election of a Chairperson, two or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the Chairperson is to be the candidate whose name is chosen by lot.
- 5.6 For the purposes of clause 5.5, the person conducting the election must:
- arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
 - then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- 5.7 The candidate whose name is on the drawn slip is the candidate who is to be the Chairperson.
- 5.8 Any election conducted under clause 5.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

Chairperson to have Precedence

- 5.9 When the Chairperson rises or speaks during a meeting of the Council:
- any Councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
 - every Councillor present must be silent to enable the Chairperson to be heard without interruption.

6. MODES OF ADDRESS

- 6.1 If the Chairperson is the Mayor, they are to be addressed as 'Mr Mayor' or 'Madam Mayor'.
- 6.2 Where the Chairperson is not the Mayor, they are to be addressed as either 'Mr Chairperson' or 'Madam Chairperson'.
- 6.3 A Councillor is to be addressed as 'Councillor [surname]'.
- 6.4 A Council Officer is to be addressed by their official designation or as Mr/Ms [surname].

7. ORDER OF BUSINESS FOR ORDINARY COUNCIL MEETINGS

- 7.1 The general order of business for an ordinary meeting of the Council shall be:
- Acknowledgement of Country
 - Prayer
 - Apologies/Leave of absence
 - Declarations of Interests by Councillors
 - Declaration of Political Donations
 - Open Forum
 - Confirmation of minutes

8. Address by the Public on agenda items
9. Mayoral Minutes
10. Notices of Motion
11. Reports of Committees
12. General Business
13. Information Items
14. Confidential Matters
15. Questions Without Notice

Note: Councils must use either clause 7.1 or 7.2.

- 7.2 The order of business as fixed under clause 7.1 may be altered for a particular meeting of the Council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

Note: Part 13 allows Council to deal with items of business by exception.

- 7.3 Despite clauses 9.20–9.30, only the mover of a motion referred to in clause 7.2 may speak to the motion before it is put.

8. CONSIDERATION OF BUSINESS AT COUNCIL MEETINGS

Business that can be dealt with at a Council Meeting

- 8.1 The Council must not consider business at a meeting of the Council:
- a. unless a Councillor has given notice of the business, as required by clause 3.10, and
 - b. unless notice of the business has been sent to the Councillors in accordance with clause 3.7 in the case of an ordinary meeting or clause 3.9 in the case of an extraordinary meeting called in an emergency.
- 8.2 Clause 8.1 does not apply to the consideration of business at a meeting, if the business:
- a. is already before, or directly relates to, a matter that is already before the Council, or
 - b. is the election of a Chairperson to preside at the meeting, or
 - c. subject to clause 8.9, is a matter or topic put to the meeting by way of a Mayoral minute, or
 - d. is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the Council.
- 8.3 Despite clause 8.1, business may be considered at a meeting of the Council even though due notice of the business has not been given to the Councillors if:
- a. a motion is passed to have the business considered at the meeting, and
 - b. the business to be considered is ruled by the Chairperson to be of great urgency on the grounds that it requires a decision by the Council before the next scheduled ordinary meeting of the Council.
- 8.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 9.20–9.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.
- 8.5 A motion of dissent cannot be moved against a ruling by the Chairperson under clause 8.3(b).

Mayoral Minutes

- 8.6 Subject to clause 8.9, if the Mayor is the Chairperson at a meeting of the Council, the Mayor may, by minute signed by the Mayor, put to the meeting without notice any matter or topic that is within the jurisdiction of the Council, or of which the Council has official knowledge.
- 8.7 A Mayoral minute, when put to a meeting, takes precedence over all business on the Council's agenda for the meeting. The Chairperson (but only if the Chairperson is the Mayor) may move the adoption of a Mayoral minute without the motion being seconded.
- 8.8 A recommendation made in a Mayoral minute put by the Mayor is, so far as it is adopted by the Council, a resolution of the Council.
- 8.9 A Mayoral minute must not be used to put without notice matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the Council before the next scheduled ordinary meeting of the Council.
- 8.10 Where a Mayoral Minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the Council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the Mayoral minute does not identify a funding source, the Council must defer consideration of the matter, pending a report from the General Manager on the availability of funds for implementing the recommendation if adopted.

Officers Reports

- 8.11 A recommendation made in a Council Officers report is, so far as it is adopted by the Council, a resolution of the Council.

Reports of Committees of Council

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

Questions

- 8.14 A question must not be asked at a meeting of the Council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.10 and 3.14.
- 8.15 A Councillor may, through the Chairperson, put a question to another Councillor about a matter on the agenda.
- 8.16 A Councillor may, through the General Manager, put a question to a Council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the General Manager at the direction of the General Manager.
- 8.17 A Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents. Where a Councillor or Council employee to whom a question is put is unable to respond to the question at the meeting at which it is

put, they may take it on notice and report the response to the next meeting of the Council.

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

8.19 The Chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a Councillor or Council Officer.

9. RULES OF DEBATE

Motions to be Seconded

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

Notices of Motion

9.2 A Councillor who has submitted a notice of motion under clause 3.10 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.

9.3 If a Councillor who has submitted a notice of motion under clause 3.10 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to Councillors, the Councillor may request the withdrawal of the motion when it is before the Council.

9.4 In the absence of a Councillor who has placed a notice of motion on the agenda for a meeting of the Council:

- a. any other Councillor may, with the leave of the Chairperson, move the motion at the meeting, or
- b. the Chairperson may defer consideration of the motion until the next meeting of the Council.

Chairperson's Duties with Respect to Motions

9.5 It is the duty of the Chairperson at a meeting of the Council to receive and put to the meeting any lawful motion that is brought before the meeting.

9.6 The Chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.

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

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

Motions Requiring the Expenditure of Funds

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

Amendments to Motions

- 9.10 An amendment to a motion must be moved and seconded before it can be debated.
- 9.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the Council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the Chairperson.
- 9.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.
- 9.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one motion and one proposed amendment can be before Council at any one time.
- 9.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 9.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 9.16 An amendment may become the motion without debate or a vote where it is accepted by the Councillor who moved the original motion.

Foreshadowed Motions

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

Limitations on the Number and Duration of Speeches

- 9.20 A Councillor who, during a debate at a meeting of the Council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.
- 9.21 A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

- 9.22 A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than five minutes at any one time.
- 9.23 Despite clause 9.22, the Chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 9.24 Despite clause 9.22, the Council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.
- 9.25 Despite clauses 9.20 and 9.21, a Councillor may move that a motion or an amendment be now put:
- a. if the mover of the motion or amendment has spoken in favour of it and no Councillor expresses an intention to speak against it, or
 - b. if at least two Councillors have spoken in favour of the motion or amendment and at least two Councillors have spoken against it.
- 9.26 The Chairperson must immediately put to the vote, without debate, a motion moved under clause 9.25. A seconder is not required for such a motion.
- 9.27 If a motion that the original motion or an amendment be now put is passed, the Chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under clause 9.20.
- 9.28 If a motion that the original motion or an amendment be now put is lost, the Chairperson must allow the debate on the original motion or the amendment to be resumed.
- 9.29 All Councillors must be heard without interruption and all other Councillors must, unless otherwise permitted under this code, remain silent while another Councillor is speaking.
- 9.30 Once the debate on a matter has concluded and a matter has been dealt with, the Chairperson must not allow further debate on the matter.

10. VOTING

Voting Entitlements of Councillors

- 10.1 Each Councillor is entitled to one vote.
- Note: Clause 10.1 reflects section 370(1) of the Act.**
- 10.2 The person presiding at a meeting of the Council has, in the event of an equality of votes, a second or casting vote.
- Note: Clause 10.2 reflects section 370(2) of the Act.**
- 10.3 Where the Chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

Voting at Council Meetings

- 10.5 A Councillor who is present at a meeting of the Council but who fails to vote on a motion

put to the meeting is taken to have voted against the motion.

- 10.6 If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.
- 10.7 The decision of the Chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two Councillors rise and call for a division.
- 10.8 When a division on a motion is called, the Chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the Council's minutes for the meeting.
- 10.9 When a division on a motion is called, any Councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 10.5 of this code.
- 10.10 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the Council may resolve that the voting in any election by Councillors for Mayor or Deputy Mayor is to be by secret ballot.
- 10.11 All voting at Closed Sessions of Council meetings, must be recorded in the minutes of meetings with the names of Councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

Voting on Planning Decisions

- 10.12 The General Manager must keep a register containing, for each planning decision made at a meeting of the Council or a Council committee (including, but not limited to a committee of the Council), the names of the Councillors who supported the decision and the names of any Councillors who opposed (or are taken to have opposed) the decision.
- 10.13 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the Council or a Council committee.
- 10.14 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.
- 10.15 Clauses 10.12–10.14 apply also to meetings that are closed to the public.

Note: Clauses 10.12–10.15 reflect section 375A of the Act.

Note: The requirements of clause 10.12 may be satisfied by maintaining a register of the minutes of each planning decision.

11. COMMITTEE OF THE WHOLE

- 11.1 The Council may resolve itself into a committee to consider any matter before the Council.

Note: Clause 11.1 reflects section 373 of the Act.

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

Note: Clauses 9.20–9.30 limit the number and duration of speeches.

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

12. CLOSURE OF COUNCIL MEETINGS TO THE PUBLIC

Grounds on which Meetings can be Closed to the Public

- 12.1 The Council or a committee of the Council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:
- a. personnel matters concerning particular individuals (other than Councillors),
 - b. the personal hardship of any resident or ratepayer,
 - c. information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,
 - d. commercial information of a confidential nature that would, if disclosed:
 - i. prejudice the commercial position of the person who supplied it, or
 - ii. confer a commercial advantage on a competitor of the Council, or
 - iii. reveal a trade secret,
 - e. information that would, if disclosed, prejudice the maintenance of law,
 - f. matters affecting the security of the Council, Councillors, Council Officers or Council property,
 - g. advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
 - h. information concerning the nature and location of a place or an item of Aboriginal significance on community land,
 - i. alleged contraventions of the Council's code of conduct.

Note: Clause 12.1 reflects section 10A(1) and (2) of the Act.

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

Note: Clause 12.2 reflects section 10A(3) of the Act.

Matters to be Considered When Closing Meetings to the Public

- 12.3 A meeting is not to remain closed during the discussion of anything referred to in clause 12.1:
- a. except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
 - b. if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless the Council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

Note: Clause 12.3 reflects section 10B(1) of the Act.

- 12.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 12.1(g) unless the advice concerns legal matters that:
- a. are substantial issues relating to a matter in which the Council or committee is involved, and
 - b. are clearly identified in the advice, and
 - c. are fully discussed in that advice.

Note: Clause 12.4 reflects section 10B(2) of the Act.

- 12.5 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in clause 13.2), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in clause 13.1.

Note: Clause 12.5 reflects section 10B(3) of the Act.

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

Note: Clause 12.6 reflects section 10B(4) of the Act.

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

Note: Clause 12.7 reflects section 10B(5) of the Act.

Notice of Likelihood of Closure Not Required In Urgent Cases

- 12.8 Part of a meeting of the Council, or of a committee of the Council, may be closed to the public while the Council or committee considers a matter that has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed, but only if:
- a. it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 12.1, and
 - b. the Council or committee, after considering any representations made under clause 12.9, resolves that further discussion of the matter:
 - i. should not be deferred (because of the urgency of the matter), and
 - ii. should take place in a part of the meeting that is closed to the public.

Note: Clause 12.8 reflects section 10C of the Act.

Representations by Members of the Public

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

Note: Clause 12.9 reflects section 10A(4) of the Act.

- 12.10 A representation under clause 12.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 12.11 Where the matter has been identified in the agenda of the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 12.9, members of the public must first make an application to the Council in the approved form. Applications must be received by **close of business Monday** before the meeting at which the matter is to be considered.
- 12.12 The General Manager (or their delegate) may refuse an application made under clause 12.11. The General Manager or their delegate must give reasons in writing for a decision to refuse an application.
- 12.13 All members of the public who wish to speak are to be permitted to make representations under clause 12.9.
- 12.14 Where it is deemed that too many speakers apply to make representations under clause 12.9, the General Manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the Council. If the speakers are not able to agree on whom to nominate to make representations under clause 12.9, the General Manager or their delegate is to determine who will make representations to the Council.
- 12.15 The General Manager (or their delegate) is to determine the order of speakers.
- 12.16 Where the Council or a committee of the Council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, the Chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The Chairperson is to permit all members of the public to make representations in such order as determined by the Chairperson.
- 12.17 Each speaker will be allowed **three** minutes to make representations, and this time limit is to be strictly enforced by the Chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the Chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the Chairperson, the speaker will not be further heard.

Expulsion of Non-Councillors from Meetings Closed to the Public

- 12.18 If a meeting or part of a meeting of the Council or a committee of the Council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a Councillor and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.
- 12.19 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council or person presiding, may, by using only

such force as is necessary, remove the first-mentioned person from that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.

Information to be Disclosed in Resolutions Closing Meetings to the Public

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

Note: Clause 12.20 reflects section 10D of the Act.

Resolutions Passed at Closed Meetings to be Made Public

- 12.21 If the Council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the Chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.
- 12.22 Resolutions passed during a meeting, or a part of a meeting, that is closed to the public must be made public by the Chairperson under clause 12.21 during a part of the meeting that is webcast.

13. KEEPING ORDER AT MEETINGS

Points of Order

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

Questions of Order

- 13.4 The Chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the Chairperson, it is necessary to do so.
- 13.5 A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson to the matter.
- 13.6 The Chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council.

- 13.7 The Chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

Motions of Dissent

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

Acts of Disorder

- 13.11 A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a committee of the Council:
- a. contravenes the Act or any regulation in force under the Act or this code, or
 - b. assaults or threatens to assault another Councillor or person present at the meeting, or
 - c. moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or the committee, or addresses or attempts to address the Council or the committee on such a motion, amendment or matter, or
 - d. insults or makes personal reflections on or imputes improper motives to any other Council official, or alleges a breach of the Council's code of conduct, or
 - e. says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or the committee into disrepute.
- 13.12 The Chairperson may require a Councillor:
- a. to apologise without reservation for an act of disorder referred to in clauses 13.11(a) or (b), or
 - b. to withdraw a motion or an amendment referred to in clause 13.11(c) and, where appropriate, to apologise without reservation, or
 - c. to retract and apologise without reservation for an act of disorder referred to in clauses 13.11(d) and (e).

How Disorder at a Meeting May be Dealt With

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

Expulsion from Meetings

- 13.14 All Chairpersons of meetings of the Council and committees of the Council are authorised under this code to expel any person, including any Councillor, from a Council or

committee meeting, for the purposes of section 10(2)(b) of the Act.

- 13.15 Clause 13.14, does not limit the ability of the Council or a committee of the Council to resolve to expel a person, including a Councillor, from a Council or committee meeting, under section 10(2)(a) of the Act.
- 13.16 A Councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the Council for having failed to comply with a requirement under clause 14.12. The expulsion of a Councillor from the meeting for that reason does not prevent any other action from being taken against the Councillor for the act of disorder concerned.
- 13.17 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the Council for engaging in or having engaged in disorderly conduct at the meeting.
- 13.18 Where a Councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.
- 13.19 If a Councillor or a member of the public fails to leave the place where a meeting of the Council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the Councillor or member of the public from that place and, if necessary, restrain the Councillor or member of the public from re-entering that place for the remainder of the meeting.

Use of Mobile Phones and the Unauthorised Recording of Meetings

- 13.20 Councillors, Council Officers and members of the public must ensure that mobile phones are turned to silent during meetings of the Council and committees of the Council.
- 13.21 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the Council or a committee of the Council without the prior authorisation of the Council or the committee.
- 13.22 Any person who contravenes or attempts to contravene clause 13.21, may be expelled from the meeting as provided for under section 10(2) of the Act.
- 13.23 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

14. CONFLICTS OF INTEREST

- 14.1 All Councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the Council and committees of the Council in accordance with the Council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the meeting at which the declaration was made.

15. DECISIONS OF THE COUNCIL

Council Decisions

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

Note: Clause 15.1 reflects section 371 of the Act in the case of Councils

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

Rescinding or Altering Council Decisions

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

Note: Clause 15.3 reflects section 372(1) of the Act.

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

Note: Clause 15.4 reflects section 372(2) of the Act.

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

Note: Clause 15.5 reflects section 372(3) of the Act.

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

Note: Clause 15.6 reflects section 372(4) of the Act.

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

Note: Clause 15.7 reflects section 372(5) of the Act.

- 15.8 The provisions of clauses 15.5–15.7 concerning lost motions do not apply to motions of adjournment.

Note: Clause 15.8 reflects section 372(7) of the Act.

- 15.9 A notice of motion submitted in accordance with clause 15.6 may only be withdrawn under clause 3.11 with the consent of all signatories to the notice of motion.

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

Note: Clause 15.11 reflects section 372(6) of the Act.

- 15.12 Subject to clause 15.7, in cases of urgency, a motion to alter or rescind a resolution of the Council may be moved at the same meeting at which the resolution was adopted, where:

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

15.13 A motion moved under clause 15.12(b) can be moved without notice. Despite clauses 9.20–9.30, only the mover of a motion referred to in clause 15.12(b) can speak to the motion before it is put.

15.14 A motion of dissent cannot be moved against a ruling by the Chairperson under clause 15.12(c).

16. TIME LIMITS ON COUNCIL MEETINGS

16.1 Meetings of the Council and committees of the Council are to conclude no later than **11pm**.

16.2 If the business of the meeting is unfinished at **11pm** a maximum extension of **30** minutes, the Council or the committee may, by resolution, extend the time of the meeting.

16.3 If the business of the meeting is unfinished at **11pm** and the Council does not resolve to extend the meeting, the Chairperson must either:

- a. defer consideration of the remaining items of business on the agenda to the next ordinary meeting of the Council, or
- b. adjourn the meeting to a time, date and place fixed by the Chairperson.

16.4 Clause 18.3 does not limit the ability of the Council or a committee of the Council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.

16.5 Where a meeting is adjourned under clause 16.3 or 16.4, the General Manager must:

- a. individually notify each Councillor of the time, date and place at which the meeting will reconvene, and
- b. publish the time, date and place at which the meeting will reconvene on the Council's website and in such other manner that the General Manager is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

17. AFTER THE MEETING

Minutes of Meetings

17.1 The Council is to keep full and accurate minutes of the proceedings of meetings of the Council.

Note: Clause 17.1 reflects section 375(1) of the Act.

17.2 At a minimum, the General Manager must ensure that the following matters are recorded in the Council's minutes:

- a. details of each motion moved at a Council meeting and of any amendments moved to it,
- b. the names of the mover and seconder of the motion or amendment,

- c. whether the motion or amendment was passed or lost, and
- d. such other matters specifically required under this code.

17.3 The minutes of a Council meeting must be confirmed at a subsequent meeting of the Council.

Note: Clause 17.3 reflects section 375(2) of the Act.

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

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

Note: Clause 17.5 reflects section 375(2) of the Act.

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

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

Access to Correspondence and Reports Laid on the Table at, or Submitted to, a Meeting

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

Note: Clause 17.8 reflects section 11(1) of the Act.

17.9 Clause 17.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

Note: Clause 17.9 reflects section 11(2) of the Act.

17.10 Clause 17.8 does not apply if the Council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

Note: Clause 17.10 reflects section 11(3) of the Act.

17.11 Correspondence or reports to which clauses 17.8 and 17.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

Implementation of Decisions of the Council

17.12 The General Manager is to implement, without undue delay, lawful decisions of the Council.

Note: Clause 17.12 reflects section 335(b) of the Act.

18. COUNCIL COMMITTEES

Application of this Part

- 18.1 This Part only applies to committees of the Council whose members are all Councillors.

Council Committees whose members are all Councillors

- 18.2 The Council may, by resolution, establish such committees as it considers necessary.
- 18.3 A committee of the Council is to consist of the Mayor and such other Councillors as are elected by the Councillors or appointed by the Council.
- 18.4 The quorum for a meeting of a committee of the Council is to be:
- a. such number of members as the Council decides, or
 - b. if the Council has not decided a number – a majority of the members of the committee.

Functions of Committees

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

Notice of Committee Meetings

- 18.6 The General Manager must send to each Councillor, regardless of whether they are a committee member, at least three days before each meeting of the committee, a notice specifying:
- a. the time, date and place of the meeting
 - b. the business proposed to be considered at the meeting
- 18.7 Notice of less than three days may be given of a committee meeting called in an emergency.

Attendance at Committee Meetings

- 18.8 A committee member (other than the Mayor) ceases to be a member of a committee if the committee member:
- a. has been absent from three consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
 - b. has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- 18.9 Clause 18.8 does not apply if all of the members of the Council are members of the committee.

Non-Members Entitled to Attend Committee Meetings

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

Chairperson and Deputy Chairperson of Council Committees

- 18.11 The Chairperson of each committee of the Council must be:
- a. the Mayor, or
 - b. if the Mayor does not wish to be the Chairperson of a committee, a member of the committee elected by the Council, or
 - c. if the Council does not elect such a member, a member of the committee elected by the committee.
- 18.12 The Council may elect a member of a committee of the Council as deputy Chairperson of the committee. If the Council does not elect a deputy Chairperson of such a committee, the committee may elect a deputy Chairperson.
- 18.13 If neither the Chairperson nor the deputy Chairperson of a committee of the Council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting Chairperson of the committee.
- 18.14 The Chairperson is to preside at a meeting of a committee of the Council. If the Chairperson is unable or unwilling to preside, the deputy Chairperson (if any) is to preside at the meeting, but if neither the Chairperson nor the deputy Chairperson is able or willing to preside, the acting Chairperson is to preside at the meeting.

Procedure in Committee Meetings

- 18.15 Subject to any specific requirements of this code, each committee of the Council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the Council unless the Council or the committee determines otherwise in accordance with this clause.
- 18.16 Whenever the voting on a motion put to a meeting of the committee is equal, the Chairperson of the committee is to have a casting vote as well as an original vote unless the Council or the committee determines otherwise in accordance with clause 19.15.
- 18.18 Voting at a Council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

Closure of Committee Meetings to the Public

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

Disorder in Committee Meetings

- 18.22 The provisions of the Act and this code relating to the maintenance of order in Council

meetings apply to meetings of committees of the Council in the same way as they apply to meetings of the Council.

Minutes of Council Committee Meetings

- 18.23 Each committee of the Council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:
- details of each motion moved at a meeting and of any amendments moved to it,
 - the names of the mover and seconder of the motion or amendment,
 - whether the motion or amendment was passed or lost, and
 - such other matters specifically required under this code.
- 18.25 The minutes of meetings of each committee of the Council must be confirmed at a subsequent meeting of the committee.
- 18.26 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 18.27 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.
- 18.28 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 18.29 The confirmed minutes of a meeting of a committee of the Council must be published on the Council's website. This clause does not prevent the Council from also publishing unconfirmed minutes of meetings of committees of the Council on its website prior to their confirmation.

19. IRREGULARITIES

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

Note: Clause 19.1 reflects section 374 of the Act.

20. DEFINITIONS

the Act	means the <i>Local Government Act 1993</i>
act of disorder	means an act of disorder as defined in clause 15.11 of this code
amendment	in relation to an original motion, means a motion moving an amendment to that motion
audio recorder	any device capable of recording speech
business day	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales

Code of Meeting Practice

Chairperson	in relation to a meeting of the Council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 20.11 of this code
this code	means the Council's adopted code of meeting practice
committee of the Council	means a committee established by the Council in accordance with clause 20.2 of this code (being a committee consisting only of Councillors) or the Council when it has resolved itself into committee of the whole under clause 12.1
Council official	has the same meaning it has in the Model Code of Conduct for Local Councils in NSW
day	means calendar day
division	means a request by two Councillors under clause 11.7 of this code requiring the recording of the names of the Councillors who voted both for and against a motion
foreshadowed amendment	means a proposed amendment foreshadowed by a Councillor under clause 10.18 of this code during debate on the first amendment
foreshadowed motion	means a motion foreshadowed by a Councillor under clause 10.17 of this code during debate on an original motion
open voting	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
planning decision	means a decision made in the exercise of a function of a Council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act
performance improvement order	means an order issued under section 438A of the Act

21. RECESS PERIOD DELEGATIONS

- 21.1 During the December/January recess it is standard procedure for Council to delegate certain functions to the Mayor and General Manager to ensure matters of urgency can be adequately dealt with. This is done via a Council resolution in November/December.
- 21.2 Functions with the exception of the functions listed under Section 377 and Chapter 7 of the *Local Government Act 1993* equally to the Mayor and General Manager where both are required to agree in their decision and sign off on the matters.
- 21.3 The regulatory functions under Chapter 7 of the Regulation is delegated solely to the General Manager (the most senior employee of Council) during the recess period (Section 379 of the Act).
- 21.4 All decisions made under the above delegations are subsequently reported to the 1st Council Meeting in February for the information of Councillors.

Note: section 226 of the Act.

22. REVIEW

When directives are issued by the Office of Local Government or where changes to legislation

have be enacted.

23. CONTACT

Manager Governance 9911 9910



Burwood Council

heritage ▪ progress ▪ pride

REVISED - COUNCILLOR INDUCTION, BRIEFINGS AND WORKSHOPS POLICY

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Public Document
Adopted by Council:
Document No.: 19/ 1996
Ownership: Governance
Version No. 4

Purpose

Briefing Sessions, Induction Sessions and Workshops are informal gatherings and are not to be used for detailed or advanced discussion where agreement is reached and/or a (de-facto) decision is made. This is to be left to the open forum of a formal Council or Committee Meeting. They are a means which enable Councillors to bring an informed mind to the appropriate decision making forum.

The information discussed at Councillor Briefing Sessions, Induction Sessions and Workshops may be specific to a particular matter submitted to Council, such as clarification of Development Applications or the matter could relate to matters which may impact on codes, policies or major strategic or operational change.

The Policy does not cover Development Application Mediation.

Scope

This Policy applies to Councillors, Council Officers and external parties.

Definitions

Induction – training/educational sessions for Councillors.

Briefings – sessions at which information is presented prior to items being put forward at a Council/Committee Meeting.

Councillor Workshops –sessions which working groups meet to discuss and/or have input into Council strategies.

Members of the Public are **NOT** permitted to attend induction, briefing meetings and workshops.

Community Workshop –sessions which the Public attend where information is shared and discussions are held on community issues such as the Burwood 2030 community consultation process or Council Social Plan consultation process.

Procedural Steps

What time are they held?

- Councillor Briefings are usually held on a Council Meeting night commencing at 5.00 pm and concluding at 6.00 pm.
- Information Sessions or Workshops are usually held on a Monday or Tues (not held on a Council Meeting night) and commence at 5.00 pm and must conclude by 7.00 pm.
- By agreement times may be altered.

Who can call for these sessions?

- Mayor, a Councillor or the General Manager.

Who can attend?

- **Induction Sessions** – presentations may be conducted by external parties and are **NOT** open to members of the public. All Councillors will be invited to attend via email. The email will include:
 - A summary of the items to be discussed and any relevant documentation
 - Councillors will be advised of any external presenters

Councillor Induction, Briefings and Workshops Policy

- Councillors will be reminded that:
- At Inductions Sessions the Council will not:
 - a. *Formally consider any specific reports containing recommendations; or*
 - b. *Make a binding decision in relation to any matters discussed during the briefing information session or workshop*
- All Councillors are encouraged, but not compelled to attend.
- **Briefing Sessions** - presentations may be conducted by external parties and are **NOT** open to members of the public. All Councillors will be invited to attend via email. The email will include:
 - A summary of the items to be discussed and any relevant documentation
 - Councillors will be reminded that:
 - At these meetings the Council will not:
 - a. *Formally consider any specific reports containing recommendations; or*
 - b. *Make a binding decision in relation to any matters discussed during the briefing information session or workshop*
 - All Councillors are encouraged, but not compelled to attend.
 - Councillors may ask questions for the purpose of seeking information or clarification.
- **Pre-Council Meeting Briefing Sessions** – prior to each ordinary or extraordinary council meeting of the Council, the General Manager, may arrange a pre-council meeting briefing session to brief the Councillors on business to be considered at the meeting. These sessions are **NOT** open to members of the public. The General Manager or a person nominated by the General Manager is responsible for chairing the meeting.
 - All Councillors will be invited to attend via email. The email will include:
 - A summary of the items to be discussed
 - Councillors will be reminded that:
 - At these meetings the Council will not:
 - a. *Formally consider any specific reports containing recommendations; or*
 - b. *Make a binding decision in relation to any matters discussed during the briefing information session or workshop*
 - c. *Councillors (including the Mayor) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a Council or committee meeting. The Council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the Councillor who made the declaration.*
- **Councillor Workshops** – Members of the Public are **NOT** permitted to attend and external parties and Councillors will attend by invitation. Councillors will be invited to attend via email. All Councillors are encouraged, but not compelled to attend. The email will include:
 - A summary of the items to be discussed and any relevant documentation
 - Councillors will be reminded that:
 - At these meetings Council will not:

Councillor Induction, Briefings and Workshops Policy

- d. *Formally consider any specific reports containing recommendations; or*
- e. *Make a binding decision in relation to any matters discussed during the briefing information session or workshop*

- **Community Workshops** – members of the public (community) will attend and presentations may be conducted by external parties. Attendees will be invited by either formal notification or via Council's website and the Mayoral Column in the local newspaper. Examples of these sessions are the Burwood2030 community consultation process or Council Social Plan consultation process.

Who chairs the meeting?

- The meetings are chaired by the General Manager or another senior Council Officer where the General Manager is not available. The General Manager will read out aloud that:
 - At these meetings Council will not:
 - a. *Formally consider any specific reports containing recommendations; or*
 - b. *Make a binding decision in relation to any matters discussed during the briefing information session or workshop*

What is recorded at the meeting?

- Minutes and recordings of the meeting will not be taken but a formal record of the briefing/information session or workshop will be kept by the Personal Assistant to the General Manager detailing:
 - Date
 - Subject
 - Those present
 - Purpose of briefing/Information session or workshop
 - Documents distributed

Can the public inspect workshop documents?

- Documentation given out at Councillor Induction, Briefings and Workshops Policy becomes a document of the Council and can be inspected and copied subject to the provisions of the *Local Government Act 1993* or the *Government Information (Public Access) Act 2009*.

Related Information/Glossary

- Council's Code of Meeting Practice
- Meetings Practice Note (Practice Note No. 16) – August 2009 former Division of Local Government
- Code of Conduct and the Administration of the Code of Conduct Procedures
- *Government Information (Public Access) Act 2009*
- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*

Review

This Policy will be reviewed every four years.

Contact

Manager Governance on 9911-9910

(ITEM 21/19) NEW COUNCILLOR INDUCTION AND PROFESSIONAL DEVELOPMENT REQUIREMENTS - CIRCULAR OFFICE OF LOCAL GOVERNMENT

File No: 19/3543

REPORT BY DEPUTY GENERAL MANAGER CORPORATE, GOVERNANCE & COMMUNITY

Summary

On 18 December 2018 the Office of Local Government (OLG) issued a Circular (No. 18-46) which supports the amendments made to the *Local Government Act 1993* (the Act) by the *Local Government Amendment (Governance and Planning) Act 2016* in August 2016. Councillors now have the responsibility under Section 232 of the Act “to make all reasonable efforts to acquire and maintain the skill necessary to perform the role of a Councillor”.

The OLG has prepared guidelines under Section 23A of the Act (Councillor Induction and Professional Development Guidelines) to assist councils with the development and delivery of induction and ongoing professional development activities for their Mayor and Councillors in compliance with the *Local Government (General) Regulation 2005* (the Regulation).

This report seeks Council’s adoption of the Draft – Councillor Induction and Professional Development Policy as required by the Guidelines.

Operational Plan Objective

2.5.1 Provide strong leadership and advocacy on behalf of the community

Background

Amendments to the Act by the *Local Government Amendment (Governance and Planning) Act 2016* in August 2016 saw the inclusion in the prescribed role of Councillors under Section 232 (g) responsibility “to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a Councillor”.

In support of this, the OLG has issued guidelines under Section 23A of the Act to assist councils with the development and delivery of inductions and ongoing professional development activities for their Mayor and Councillors in compliance with the Regulation. Section 23A states that council must take any relevant guidelines issued under this section into consideration before exercising any of its functions.

Councils’ Induction and Professional Development Program is to consist of three elements:

- **Pre-election Candidate Sessions** – these are to ensure prospective candidates are aware of what will be expected of them if elected (these are **not mandatory** but are encouraged). It should be noted that these sessions were previously conducted by the Office of Local Government.
- **Induction Program** – this aims to equip the Mayor and Councillors with the information they need to perform their role effectively over the first few months after being appointed to office and has a particular focus on building positive, collaborative relationships between the Councillors and Council Officers.
- **Professional Development Program** – this is to be developed in consultation with all Councillors and delivered over the term of the Council to build the skills, knowledge and personal attributes necessary to be an effective Mayor or Councillor.

Council will be required to report information in its annual report on the induction and ongoing professional development activities offered to the Mayor and each Councillor. The reporting requirements are as follows under the Regulation:

1. The General Manager is to ensure an induction program is delivered for newly elected and returning Councillors and a specialised supplementary induction program for the Mayor within six months of their election.
2. The General Manager is to ensure an ongoing professional development program is delivered for the Mayor and each Councillor over the term of the council for the purposes of assisting them to acquire and maintain the skills necessary to perform their role.
3. The content of the ongoing professional development program to be delivered to the Mayor and Councillors is to be determined in consultation with the Mayor and each Councillor and is to have regard to the specific skills required by the Mayor, each individual Councillor and the governing body as a whole to perform their roles.
4. Mayors and Councillors must make all reasonable efforts to participate in the activities offered to them as part of an induction or ongoing professional development program.
5. Councils are to publish the following information in their annual reports:
 - the name of the Mayor and each Councillor that completed council's induction program (where an induction program has been delivered during the relevant year)
 - the name of the Mayor and each Councillor who participated in any ongoing professional development program during the year
 - the number of training and other activities provided to the Mayor and Councillors during the year as part of a professional development program
 - the total cost of induction and professional development activities and any other training provided to the Mayor and Councillors during the relevant year.

Councillors were provided with a Councillor Induction and Professional Development presentation in August 2018 which outlined the requirements of these changes to legislation and the OLG's guidelines.

Proposal

Council is required to:

1. take immediate steps to develop and deliver a professional development program for the Mayor and each Councillor
2. from next year, the Councillor Induction and Professional development will be reported in its annual report
3. deliver an induction program for a Councillor elected at a by-election before the next ordinary election
4. prepare and deliver an induction program for the Mayor and all Councillors following the next ordinary elections
5. adopt the draft Councillor Induction and Professional Development Policy

To ensure that Council meets its statutory requirements it is prudent that it adopts the Councillor Induction and Professional Development Policy and commences the process of developing the Professional Development Program.

The draft Policy has been developed in line with the Section 23A of the OLG's Councillor Induction and Professional Development Guidelines. The Policy is not submitted to Council for adoption.

Consultation

The Policy has been endorsed by the General Manager and Council's Policy, Corporate Practice and Procedures Panel.

Planning or Policy Implications

Once the Policy is adopted by Council, all Councillors, including the Mayor will be required to undertake the Local Government Capability Framework Assessment and "PD in a Box" through Local Government NSW.

From the assessment Councillors will be provided with an individual professional development program.

Financial Implications

Council is required to allocate an annual budget to support the induction and professional development activities to be undertaken in that year.

The progress against expenditure of the budget allocation should be reported on a quarterly basis as part of the budgetary cycle.

Council will need to determine the size of the budget allocation, which may change annually, depending on training needs. It is to be expected that costs will be higher in the first year of Council's term due to the need to deliver an induction program.

The Delivery Program financial estimates and the Long Term Financial Plan will reflect the varying training and development budget requirements over the term of the Council.

It is estimated that a budget allocation of \$70,000 for all Councillors, including the Mayor, is required on an annual basis. This budget will be in addition to the already allocated budget for each Councillor for professional development of \$5,000 per Councillor as per the Councillors' Expenses and Facilities Policy.

Conclusion

That Council adopts the draft – Councillor Induction and Professional Development Policy as it complies with the Office of Local Government's Councillor Induction and Professional Development Guidelines – 2018.

Recommendation(s)

1. That Council adopts the draft – Councillor Induction and Professional Development Policy.
2. That Council allocates an annual budget to support the Induction and Professional Development Program.

Attachments

- 1 [!\[\]\(693fcb3caaca16f960792dd4ef78f66d_img.jpg\)](#) Draft - Councillor Induction and Professional Development Policy



Burwood Council
heritage ▪ progress ▪ pride

DRAFT – COUNCILLOR INDUCTION AND PROFESSIONAL DEVELOPMENT POLICY

Office of Local Government Guidelines issued under Section 23A of the *Local Government Act*
1993

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Public Document
Adopted by Council: <Date>
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Version No.: 1
Ownership: Governance

Councillor Induction and Professional Development Policy

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Councillor Induction and Professional Development Policy

Purpose

The purpose of this policy is to demonstrate Burwood Council's commitment to ensuring that the Mayor and Councillors have access to induction and ongoing professional development which will assist them to develop and maintain the skills and knowledge required to effectively perform their civic role and responsibilities under the *Local Government Act 1993* (the Act).

Scope

The Policy applies to all Councillors of Burwood Council, including the Mayor.

Statement of Commitment

Burwood Council is committed to developing an induction and ongoing professional development program for the Mayor and Councillors to ensure they can fulfil their statutory roles and responsibilities. As part of this program, the Mayor and each Councillor will have a professional development plan that identifies specific gaps in their capabilities (ie their knowledge, skills and attributes) and identify professional development activities to build these capabilities.

Induction Program

Burwood Council will develop an induction program for new and returning Councillors as well as a supplementary program for the Mayor to ensure they are provided with all the information they need to effectively fulfil their roles in the first few months of Council's term and feel confident in their ability to do so. The induction program will cover:

Topic Area	Content
Orientation	<ul style="list-style-type: none"> an orientation of Council facilities and the local government area provision of equipment in line with the Councillors' Expenses and Facilities Policy
Role of Council	<ul style="list-style-type: none"> The role and responsibilities of local government The guiding principles under the Act that govern Council's functions The purpose of Council and committee meetings
Roles and Responsibilities of Councillors and staff under the Act	<ul style="list-style-type: none"> The roles and responsibilities of the governing body and individual Councillors under the Act, including in relation to integrated planning and reporting: <ul style="list-style-type: none"> an overview of the key issues and tasks for the new Council including Council's Burwood2030 Community Strategic Plan, delivery program, operational plan, resourcing strategy and community engagement plan The roles and responsibilities of the Mayor as leader of the governing body, including oversight of the General Manager Council's Organisational Structure The strategic nature of the roles of elected members compared to the operational roles of the General Manager and Council Officers The regional and other bodies the Council is a member of and the roles of those bodies
Planning Panel	<ul style="list-style-type: none"> The roles and responsibilities of Planning Panels
Legal and ethical responsibilities	<ul style="list-style-type: none"> Requirement to take an oath of office Requirement to meet the ethical standards prescribed under the Act and Council's Code of Conduct, including managing pecuniary and non-pecuniary interests Outline of the legal responsibilities of Councillors under the Act and their personal responsibilities under other legislation, for example in relation

Councillor Induction and Professional Development Policy

Topic Area	Content
	<p>to:</p> <ul style="list-style-type: none"> ○ work health and safety ○ anti-discrimination ○ privacy ○ public access to information ○ record keeping and records management <ul style="list-style-type: none"> ▪ Outline of any Council policies that Councillors will be expected to comply with, for example: <ul style="list-style-type: none"> ○ Councillors' Access to Information and Interaction with Council Officers Policy ○ Councillor Induction, Briefings and Workshop Policy ○ Councillor Induction and Professional Development Policy ○ Code of Meeting Practice ○ Code of Conduct ○ Councillors' Expenses and Facilities Policy ○ Conflicts of Interest Policy ○ Gifts and Benefits Policy
Skills and Knowledge	<ul style="list-style-type: none"> ▪ skills and personal attributes needed to perform the roles of a Councillor or Mayor ▪ outline of the additional knowledge, skills and personal attributes required by the Mayor
Time Commitment	<ul style="list-style-type: none"> ▪ Participation in Council's Councillor induction program ▪ Participation in the Mayor's supplementary induction program ▪ Expected attendance at Council Meetings, including meeting days, times, frequency and possible duration ▪ Preparation required for Council Meetings, for example: <ul style="list-style-type: none"> ○ attending pre-meeting briefings ○ reading business papers ○ ensuring Councillors have a full understanding of issues requiring decisions ○ Potential participation in other meetings, for example extraordinary Council Meetings, regional bodies, external bodies ○ Potential attendance at community events, ceremonies and other functions ○ Responding to media requests and inquiries ○ Potential participation in formal community consultation processes ○ Answering letters, emails and phone calls from residents and ratepayers as well as participating in regular informal conversations ○ Participation in any other activities that are likely to arise and require the Mayor or Councillors' time
Support available to assist Councillors in the role	<ul style="list-style-type: none"> ▪ The annual fees paid to Councillors and the Mayor ▪ Council's expenses and facilities policy ▪ Council's induction and professional development program for Councillors and the Mayor ▪ The responsibility of the General Manager and Council Officers to provide timely information and advice and the administrative and professional support necessary for Councillors to effectively discharge their functions
Ways to gain further understanding	<ul style="list-style-type: none"> ▪ Attendance at a Council meeting/s or Council committee meeting/s to observe Council decision making and meeting practice ▪ NSW Electoral Commission website and other educational materials

Councillor Induction and Professional Development Policy

Topic Area	Content
Mayoral	<ul style="list-style-type: none"> ▪ how to be an effective leader of the governing body and the Council ▪ the role of the Chair and how to chair Council Meetings ▪ the Mayor's role in integrated planning and reporting ▪ the Mayor's role and responsibilities under the Code of Conduct ▪ the Mayor's role and responsibilities in relation to the General Manager's employment ▪ the Mayor's role at regional and other representative bodies ▪ the Mayor's civic and ceremonial role

The Mayor and Councillors must have a working knowledge and understanding of these areas by the end of the induction program.

The induction program will also include team building activities to help the governing body establish itself as a cohesive and collaborative team focused on a common purpose with shared values and goals. Activities will aim to ensure the Mayor and Councillors:

- identify how they would like to work together as a team and identify a common vision for the governing body
- build relationships with each other based on trust and mutual respect that facilitate collaboration
- contribute to a positive and ethical culture within the governing body
- work towards consensus as members of the governing body for the benefit of the community
- develop respectful negotiation skills and manage alternative views within the governing body without damaging relationships
- understand what supports or undermines the effective functioning of the governing body
- respect the diversity of skills and experiences on the governing body
- communicate and uphold the decisions of Council in a respectful way, even if their own position was not adopted

Activities should also help the Mayor, as the leader of the governing body, to:

- act as a stabilising influence and show leadership
- promote a culture of integrity and accountability within Council and when representing Council in the community and elsewhere

The Mayor and Councillors, including those re-elected to office, must attend all induction sessions.

Burwood Council will evaluate the Burwood Induction Program at the end of each Council term to determine whether it has achieved these outcomes, and to identify and address areas for improvement.

Ongoing Professional Development Program

An individual ongoing professional development plan will be developed for the Mayor and each Councillor to address and provide up skilling opportunities (ie the knowledge, skills and attributes) needed to effectively fulfil their role.

Each professional development plan will span the Council's term, and identify professional development activities that the Mayor or Councillor will participate in. Professional development activities will be prioritised according to need and approved by the General Manager where Council funds are required in accordance with Council's Councillors' Expenses and Facilities Policy. The Mayor and Councillors are expected to complete all the activities included in their professional development plan.

Professional development activities will, wherever possible, follow the 70/20/10 principle. The 70/20/10 principle requires that:

Councillor Induction and Professional Development Policy

- 70% of learning activities are provided via learning and developing from experience – for example, on-the-job training, self-directed learning, developmental roles, problem solving, exposure and practice
- 20% of learning activities are provided via learning and training through others – for example, personal or professional networks, coaching, mentoring, feedback, memberships and professional associations
- 10% of learning activities are provided via learning and developing through structured programs – for example, training courses, external or in-house workshops, seminars, webinars and other e-learning and briefing sessions conducted by the Council, external training providers or industry bodies

The timing of professional development activities for the Mayor and Councillors will be designed in such a way so as to not overload Councillors with learning activities in the early part of Council's term. The timing will reflect what knowledge and skills Councillors and the Mayor need at various points in Council's term to undertake their roles.

The Mayor and Councillors will be provided with as much notice as possible for upcoming induction and professional development activities.

Responsibilities

The Mayor and each Councillor are responsible for making themselves available to attend any development activities identified in the professional development plan. The Mayor and all Councillors must make all reasonable endeavours to attend and participate in the induction sessions and professional development activities arranged for them during the term of the Council.

The Manager Governance is responsible for planning, scheduling and facilitating induction and professional development activities for the Mayor and Councillors in consultation with the General Manager.

The General Manager has overall responsibility for Burwood Council's Induction and Professional Development Program.

Budget

An annual budget allocation will be provided to support the induction and professional development activities undertaken by the Mayor and Councillors. Expenditure will be monitored and reported quarterly. The budget will be included as part of the Councillors' Expenses and Facilities Policy.

Approval of Training and/or Expenses

Professional development activities that require Council funds are to be approved by the Manager Governance in accordance with Burwood Council's Councillors' Expenses and Facilities Policy.

Evaluation

Council will evaluate the professional development program at the end of each Council term to assess whether it was effective in assisting the Mayor and Councillors to develop the capabilities required to fulfil their civic roles.

Reporting

The General Manager will publically report each year in Council's annual report:

Councillor Induction and Professional Development Policy

- the name of the Mayor and each individual Councillor that completed Council's Induction Program (where an induction program has been delivered during the relevant year)
- the name of the Mayor and each Councillor who participated in any ongoing professional development program during the year
- the number of training and other activities provided to the Mayor and Councillors during the year as part of a professional development program
- the total cost of induction and professional development activities and any other training provided to the Mayor and Councillors during the relevant year

Related Information/Glossary

Possible matters to consider:

- *Local Government Act 1993*
- *Local Government (General) Regulations 2005*
- Office of Local Government – Councillor Induction and Professional Development Guidelines (Section 23A of the Act)
- Councillors' Expenses and Facilities Policy

Review

The Policy will be reviewed every four years.

Contact

Manager Governance on 9911 9910

(ITEM 22/19) APPOINTMENT - CODE OF CONDUCT REVIEWERS - SOUTHERN SYDNEY REGIONAL ORGANISATION OF COUNCILS (SSROC) INCORPORATED

File No: 19/2603

REPORT BY DEPUTY GENERAL MANAGER CORPORATE, GOVERNANCE & COMMUNITY

Summary

In December 2018 the Office of Local Government (the OLG) issued a new Model Code of Conduct (Model Code) together with the Procedures for the Administration of the Code of Conduct (Circular No. 18-44).

In line with the new Model Code councils are required to review their existing panels of conduct reviewers if they have not done so in the past for years. Burwood Council last appointed their Panel in 2013.

Southern Sydney Region of Councils (SSROC) called for Expressions of Interest (EOI) to review and reappoint a regional panel of Code of Conduct Reviewers with a range of skills that can meet the requirements. Burwood Council joined the EOI and Council is now being requested to appoint the Panel.

Operational Plan Objective

2.1.3 ensure transparency and accountability in decision making

Background

In December 2018 the OLG issued a new Model Code of Conduct (Circular No. 18-44). Under the Model Code of Conduct (Model Code) Councils are required to ensure that a Panel of Conduct Reviewers is appointed using the selection process prescribed under the Procedures for the Administration of the Code of Conduct.

Under the Model Code Councils are required to review their existing panels of conduct reviewers and determine to appoint a new panel using the expression interest process prescribed, if they have not done so in the past four years. Councils may appoint shared panels with other councils including through a joint organisation or another regional body associated with the councils.

As the SSROC Panel had not been reviewed for the past four years, SSROC called for an EOI in line with the requirements of the new Model Code, which Burwood Council joined. However, the appointment of the Panel via a Council resolution did not take place at that time, and it is now required.

Proposal

In 2017 SSROC called an EOI for suitably qualified individuals who wished to be placed on a Regional Panel of Code of Conduct Reviewer(s) across SSROC member Councils. The Panel was to be open to SSROC Councils to draw upon an individual(s) to act as a sole reviewer, or to be part of a committee on an "as-required" basis, to meet Council's requirements.

Given the nature of the reviews, candidates needed to possess an unimpeachable record of behaviour, community standing and be independent of participating Councils, Councillors and Council Officers.

To be eligible to be a member of a panel of conduct reviewer(s), a person must, at a minimum, meet the following requirements:

- a. an understanding of local government
- b. knowledge of investigative processes including, but not limited to, procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*
- c. knowledge and experience of one or more of the following: investigations, or law, or public administration, or public sector ethics, or alternative dispute resolution
- d. meet the eligibility requirements for membership of a panel of conduct reviewers

Contract Term

The contract term is for four years subject to satisfactory performance, which will be determined by member Councils and SSROC.

Council Participation

Participating Councils are listed as follows:

1. Bayside City Council
2. Burwood Council
3. Canterbury Bankstown Council
4. City of Canada Bay
5. Georges River Council
6. Inner West Council
7. City of Sydney Council
8. Sutherland Shire Council
9. Randwick Council
10. Waverley Council
11. Woollahra Council

Expression of Interest Process

- a. **Legislation** – This process was conducted in accordance with the Office of Local Government's Tendering Guidelines, the *Local Government Act 1993*, and the *Local Government (General) Regulations 2005*.
- b. **Advertising** – Expressions of Interest for the "Code of Conduct Reviewer" were advertised in the Sydney Morning Herald, Daily Telegraph, SSROC website and the tendersonline.com.au/website on Tuesday 11 April 2017. Expression of Interest Closed at 4pm AEST on Tuesday 2 May 2017.
- c. **Evaluation Panel** – Ms Jennifer Revell – SSROC Procurement & Contracts Manager – Chair, Ben Thompson – Workplace Co-ordinations Manager – Bayside Council, David Kelly – Manager Administrative Services – Randwick Council, Jane Worthy – Manager Internal Ombudsman's Office – Waverley Council.
- d. **Evaluation Criteria** – The evaluation panel determined that submission would be assessed on the basis of the experience of the Respondents and their respective organisations and the pricing attached to the submission. If all Respondents were evaluated to have the same experience and knowledge of local government the evaluation could come down to the pricing requested.

Tender Submissions

There were 18 submissions received from the following organisations (in alphabetical order):

1. Black Mouse Consulting (Michael Callan)

2. Centium Group (Phil O'Toole)
3. Checks Balances Integrity (Stephen Home)
4. Chris Gallagher (independent)
5. Dentons (Justin Koprivnjak, Jose Wauchope)
6. Mediate Today (Lopich Lawyers)
7. MSM Loss Management (Greg Waters)
8. Nemesis Consultancy (Peter Moroney)
9. O'Connell Workplace (Graham Evans)
10. O'Connor Marsden (Andrew Marsden)
11. PKF Forensic & Risk (Wayne Gilbert)
12. Prevention Partners (Monica Kelly)
13. Quadrant Management (Chris Stratten)
14. Rechelle Leahy (independent)
15. SINC Solutions (Kath Roach)
16. Strategic Risk Solutions (Robert Ryan)
17. Train Reaction (Kathleen Thane)
18. Tress Cox Lawyers (Peta Tumpey, Keely Horan)

Evaluation Overview

All members of the Evaluation Panel signed a Pecuniary Interest Declaration. No pecuniary interests were noted.

The relative combined non-price assessments of tenders as determined by the entire evaluation panel are listed below in Table 2.

Attachment 1 contains a short Supplier Information summary for each of the Respondents who provided a conforming tender response, outlining highlights and details about the experience and location.

Risks

The EOI documented that a panel of suppliers would be selected for this contract. In discussion the Evaluation Panel determined that for the purposes of adequate and equitable coverage, satisfaction with the proposed supplier capabilities, and a relatively low number of expected Investigations/reviews per council per year, that a smaller panel may be beneficial for the region. From the review of submissions, it was determined by the Panel that five or six suppliers were satisfactory in meeting the region's requirements.

Preferred Suppliers

The evaluation panel selected the following seven preferred suppliers. (Ranged in alphabetical order only)

Rank	Preferred Suppliers Panel
1	Centium Group (Phil O'Toole)
2	Nemesis Consulting (Peter Moroney)
3	O'Connor Marsden (Andrew Marsden)
4	PKF Forensic & Risk (Wayne Gilbert)
5	Prevention Partners (Monica Kelly)
6	SINC Solutions (Kath Roach)
7	Train Reaction (Kathleen Thane)

Financial Implications

The contract constitutes a standing offer for the supply on only such services as stipulated in the EOI without guarantee of quantity, and during the currency of the contract. The participating

Councils shall not be bound expressly or impliedly to order from the Preferred Suppliers any quantity of services during the period of the contact.

Planning or Policy Implications

The appointment of a Panel of Code of Conduct Reviewers is in accordance with Council's Code of Conduct and the Procedures for the Administration of the Code of Conduct and the OLG's requirements.

Financial Implications

Within the General Manager's budget allocation.

Conclusion

That Council appoints the Panel of Code of Conduct Reviewers in line with the recommendation from SSROC to meet the requirements of the Code of Conduct, the Procedures for the Administration of the Code of Conduct and the OLG's requirements.

Recommendation(s)

1. That Council receives and notes the recommendations from SSROC for the appointment of the Panel of Code of Conduct Reviewers.
2. That Council accepts the preferred suppliers listed below as the successful Preferred Suppliers for the Panel of Code of Conduct Reviewers, for a period of four years with no additional options:

Centium Group (Phil O'Toole)
Nemesis Consulting (Peter Moroney)
O'Connor Marsden (Andrew Marsden)
PKF Forensic & Risk (Wayne Gilbert)
Prevention Partners (Monica Kelly)
SINC Solutions (Kath Roach)
Train Reaction (Kathleen Thane)

Attachments

- 1 [↓](#) Supplier Information

Supplier Information

SSROC E2017-JH Code of Conduct Reviewer Report



Attachment 1 – Supplier Information

Supplier Information Summary		
SUPPLIER	LOCATION	QUICK SUMMARY
Centium Group ABN 65 216 748 481	Level 8, 66 Goulburn Street, Sydney NSW 2000	Established from NSW IAB Professional Indemnity \$10M Previous Code of Conduct reviews Will cover all SSROC Councils Investigators with experience in Law, Investigations, Public Sector Ethics, Public Administration and Alternative Dispute Resolution Established 2008
Nemesis Consultancy Group ABN 39 132 358 859	5,5-7 Lone Pine Place, Smeaton Grange NSW 2567	For the engagement of Peter Moroney ONLY. Professional Indemnity \$10M (occurrence \$20M aggregate) Previous investigations in Code of Conduct breaches, incident management & recovery, fraud, theft, workplace grievance and workers compensation matters. Numerous councils. Will cover all SSROC region
O'Connor Marsden ABN 94 135 783 792	Level 3, 1 York Street Sydney NSW 2000	Service all councils Extensive work with local councils and federal and state governments Has conducted code of conduct investigations Formally trained in investigation methodology Offer alternative dispute resolution frameworks
PKF Forensic & Risk ABN 44 610 622 001	Level 8, 1 O'Connell Street, Sydney NSW 2000	Professional Indemnity \$10M (aggregate \$20M) Suitable for financial forensic type investigations Bit more costly, but more niche towards forensics Working with 7 councils Investigations, fraud, security works
Prevention Partners NSW ABN 59 038 820 166	19 Sutherland Road, North Parramatta, NSW 2051	For the engagement of Viv Mercer and Wayne Gilbert ONLY Will cover all SSROC region Specific knowledge of local government Demonstrated experience working within the Local Government Act Code of Conduct Reviewer for 20 local councils Professional Indemnity \$8M Charges \$0.50 per sheet for photocopying

Supplier Information

SSROC E2917-01 Code of Conduct Reviewer Report



SINC Solutions Pty Ltd ABN 54 485 603 535	131 View Street, Annandale NSW 2038	Will cover all SSROC region Extensive experience in local government governance & regulation Over 500 conduct review matters since 2006 Conducts Councilor training for NSW Metro and Rural councils on topics including Code of Conduct. Roles & Responsibilities, pecuniary interests etc.
Train Reaction Pty Ltd ABN 93 054 957 943	8 Pearson Street, Balmain East NSW 2041	Will cover all SSROC region Professional Indemnity \$10M Current Code of Conduct reviewer for SSROC panel 120 Code of Conduct reviews since 2009 Extensive experience working with numerous NSW councils

(ITEM 23/19) BUDGET REVIEW FOR QUARTER ENDING 31 DECEMBER 2018

File No: 19/2328

REPORT BY CHIEF FINANCE OFFICER

Summary

The 2018-2019 Budget was adopted at the Council Meeting held on 26 June 2018 with a surplus of \$56,593. The adopted budget was prepared on the basis of the organisational structure which includes three Divisions (Office of the General Manager, Corporate, Governance and Community, and Land, Infrastructure and Environment).

This report provides Council with the financial results for the period ending 31 December 2018, 2018-19 Financial Year. In accordance with Clause 203(1) of the *Local Government (General) Regulation 2005* (the Regulation) the Responsible Accounting Officer is required to prepare and submit to Council a budget review statement no later than two months after the end of each quarter (except the June Quarter).

The following Statement of Budget Income and Expenditure identifies a forecast funding surplus of \$34,534 as at 31 December 2018 compared to the revised adopted forecast surplus of \$8,391 as at 30 September 2018 which was adopted at the November 2018 Council Meeting. The reasons for the net increase of \$26,143 are outlined in the report.

Operational Plan Objective

2.3.1 Identify and maintain additional revenue sources to ensure financial sustainability

Background

Included in this report is the budget forecast of Income and Expenditure Statement which is based on external and internal reporting consolidations to improve the transparency and consistency of reported information. This statement forms part of a group of statements which must be reported to Council on a quarterly basis in accordance with Clause 202(3) of the Regulation. These statements are known as the Quarterly Budget Review Statements (QBRs).

Council's budget is prepared on a program basis and forecasts expected operating and capital income and expenditure for the year. To fund the budget, Council also utilises funds held in reserve that have accumulated in prior years such as Section 7.12 Local Infrastructure Contributions and Internally Restricted Reserves.

The Local Government Code of Accounting Practice and Financial Reporting require Council to prepare its General Purpose Annual Financial Reports in accordance with the Australian Accounting Standards. The major implications are that Council must adopt a general purpose format for financial reporting.

This requires Council to:

- implement full accrual accounting, including capitalisation of infrastructure assets
- prepare consolidated financial statements incorporating all functions and entities under the control of Council
- adapt to a change in accounting focus from the fund result for the year (i.e. the movement in working funds) to the gain/(loss) from ordinary activities

Each of these requirements is applied at the time of preparing the Annual Financial Reports at 30

June each year. However, with respect to the budget process Council is still focusing on the funding result of reporting. The financial result for the year is determined and audited and the Financial Reports and Auditor's Report are included in Council's Annual Report.

BURWOOD COUNCIL							
Statement of Budget Income & Expenditure							
as at 31 December 2018							
Income							
Type	Budget	Adopted Variations September	Amended Budget	Recommended Amendments	Forecasted Year End	Reference	Actuals
Rates & Annual Charges	(27,641,284)	(213,391)	(27,854,675)	(108,502)	(27,963,177)	1	(27,949,087)
User Charges & Fees	(10,361,515)	(482,000)	(10,843,515)	(79,659)	(10,923,174)	2	(6,241,817)
Interest & Investment Revenue	(1,300,000)	-	(1,300,000)	-	(1,300,000)	3	(424,622)
Other Revenue	(4,646,813)	(60,000)	(4,706,813)	4,000	(4,702,813)	4	(2,321,132)
Operating Grants & Contributions	(3,286,542)	(105,500)	(3,392,042)	10,189	(3,381,853)	5	(1,873,251)
Capital Grants & Contributions	(4,530,000)	(4,382,373)	(8,912,373)	(109,000)	(9,021,373)	6	(4,462,218)
Carryover Grants	-	-	-	(172,230)	(172,230)	7	(172,230)
Total Income	(51,766,154)	(5,243,264)	(57,009,418)	(455,202)	(57,464,620)		(43,444,357)
Expenditure							
Type	Budget	Adopted Variations September	Amended Budget	Recommended Amendments	Forecasted Year End	Reference	Actuals
Employment Costs	20,651,120	(694,416)	19,956,704	(219,110)	19,737,594	8	9,393,694
Borrowing Costs	346,640	-	346,640	-	346,640	9	147,857
Materials & Contracts	10,730,579	1,916,285	12,646,864	407,534	13,054,398	10	5,163,041
Depreciation	7,175,000	-	7,175,000	-	7,175,000	11	3,609,310
Other Expenses	9,670,207	24,595	9,694,802	136,635	9,831,437	12	4,197,325
Total Expenditure	48,573,546	1,246,464	49,820,010	325,059	50,145,069		22,511,226
Net Operating Result	(3,192,608)	(3,996,800)	(7,189,408)	(130,143)	(7,319,551)		(20,933,130)
Net Operating Result before Capital Items	1,337,392	385,573	1,722,965	(21,143)	1,701,822		(16,470,913)
Funding Statement							
Net Operating Result	(3,192,608)	(3,996,800)	(7,189,408)	(130,143)	(7,319,551)		(20,933,130)
Add Back Non Cash Items							
Depreciation	(7,175,000)	-	(7,175,000)	-	(7,175,000)	13	(3,609,310)
Movement in ELE	-	-	-	-	-		-
Adjusted Net Operating Result	(10,367,608)	(3,996,800)	(14,364,408)	(130,143)	(14,494,551)		(24,542,441)
Source of Capital Funds							
Sale of Assets	(700,000)	-	(700,000)	-	(700,000)	14	(2,268,369)
Loan Funding	(1,000,000)	-	(1,000,000)	-	(1,000,000)	15	-
Transferred From Section 7.12	(2,525,000)	(3,563,044)	(6,088,044)	(520,000)	(6,608,044)	16	-
Transferred From Reserves	(2,770,000)	(865,702)	(3,635,702)	(1,171,000)	(4,806,702)	17	(4,834)
Add Back Non Cash Property	-	-	-	-	-		-
Funds Available	(17,362,608)	(8,425,546)	(25,788,154)	(1,821,143)	(27,609,297)		(26,815,644)
Funds Utilised:							
Acquisition of Assets	11,903,000	8,473,748	20,376,748	1,795,000	22,171,748	18	4,511,379
Loan Principal Repayment	633,015	-	633,015	-	633,015	19	242,690
Transfer to Section 7.12	4,030,000	-	4,030,000	-	4,030,000	20	-
Transfer to Reserves	740,000	-	740,000	-	740,000	21	-
Budget Result	(56,593)	48,202	(8,391)	(26,143)	(34,534)		(22,061,575)

The material variations greater than \$15,000 are detailed in the following section which are cross referenced to the Income and Expenditure type on the face of the above report.

Total Income from continuing operations

Income from continuing operations was originally forecast at \$51,766,154. At the September review this was increased to \$57,009,418. As at December there is a further increase of \$455,202 to \$57,464,620. The major items resulting in this forecast income adjustment include:

Reference 1 – Rates and Annual Charges - An increase in Council's Rating Base of \$108,502 attributed to an increase in residential strata units coming on line and the re-categorisation of

property within the Local Government Area of \$78,627 and an increase in Domestic Waste Management Charges of \$29,875.

Reference 2 – User Charges and Fees - An overall increase of \$79,659 primarily due to the following:

- An increase in construction Hoarding Fees of \$50,000 due to increased building works within the Burwood Town Centre and Local Area.
- An increase of \$75,600 in Car Park income in relation to hire of Car Park for adjoining construction works.
- A reduction in Outdoor Eating and Mini Skip Licences totalling \$17,441 due to loss in client base.
- An overall reduction of \$30,000 in Hall Hire due to renovation works being carried out at various Council properties (Burwood Park Community Centre and Library Auditorium).

There were other budget movements within the classification of User Charges and Fees which were under \$15,000 resulting in little or no change to the actual overall budget.

Reference 4 – Other Revenue - An overall reduction of \$4,000 primarily attributed to Library Sundry Sales and Fines (being discontinued).

Reference 5 – Operating Grants and Contributions - A decrease in Operating Grants and Contributions of \$10,189, associated with a \$9,500 reduction in Community Services contributions which Council will not be receiving during 2018-19 financial year. Reference 10 – Materials and Contracts.

There were other budget movements within the classification of Operating Grants and Contributions which were under \$15,000 resulting in little or no change to the actual overall budget.

Reference 6 – Capital Grants and Contributions - An increase of \$109,000 attributed to a Private Works/Restoration contribution associated with works within the Town Centre. The expenditure items are distributed within Reference 18 – Acquisition of Assets.

Reference 7 – Carryover Grants - A total of \$172,230 Grant monies which were unspent or prepaid in the 2017-2018 Financial Year have been brought forward after being approved by the funding authority.

The expenditure items for these grant monies are distributed within Reference 10 - Materials and Contracts and Reference 12 – Other Expenses.

Total Expenditure from continuing operations

Expenditure from continuing operations was originally forecast at \$48,573,546. At the September Review it was increased to \$49,820,010. As at December 2018 there is a further increase of \$325,059 to \$50,145,069. The major items resulting in this forecast expenditure adjustment include:

Reference 8 – Employment Costs - An overall decrease in Employee costs of \$219,110 is attributed to, but not limited to, transfers from various Business Units Wages and Salaries components for the funding of Contractors – Temporary Staff who are employed to fill vacant positions within the organisation. Areas which required the transfers during the quarter from Wages and Salaries were Parking Enforcement, Operations Centre, Building & Development, Records, Customer Service and Council's Streetscape Service.

Note: that there is a commensurate offset in Reference 10 – Materials and Contracts.

There were other budget movements within the classification of Employee Costs which resulted in little or no change to the actual overall budget.

Reference 10 – Materials and Contracts - An additional expenditure amount of \$407,534 was attributed to various movements within Business Units throughout the budget. Significant movements and additional funding requests were:

- Contracted Temporary Staff - \$287,000 to fill various positions throughout the organisation. These funds were in part sourced from savings within Wages and Salaries respective budgets. Reference 8 – Employment Costs.
- An amount of \$111,360 and \$14,970 was required for unexpended Grant monies being brought forward from 2017-18 Financial Year. Reference 7 – Carryover Grants.

There were other budget movements within the classification of Materials and Contracts. These movements had no significant change to the actual overall budget or were transferred to Other Expenses.

Reference 12 – Other Expenses - There was an increase in expenditure for the December quarter in Other Expenses which amounted to \$136,635. This was attributed to various movements within Business Units throughout the budget as follows:

- An amount of \$29,875 in Domestic Waste Management waste costs was included to offset additional income received during the quarter. Reference 1 – Rates and Annual Charges
- An amount of \$45,900 was required for unexpended Grant monies being brought forward from 2017-18 financial year. Reference 7 – Carryover Grants.
- An amount of \$25,000 was required for Council's Fleet Software.
- \$15,000 additional expenditure required for increased Gas usage at Enfield Aquatic Centre, attributed in part to under budgeting at estimate time.

There were other budget movements within the classification of Other Expenses which were either offset with savings from within respective budgets or transferred to Materials and Contracts.

Capital Expenditure

Reference 18 – Acquisition of Assets - Council's original adopted 2018-19 Capital Budget, per Delivery Plan, was \$11,903,000. At the September review it was increased to \$20,376,748. As at December there is a further allocation of \$1,795,000 bringing the total Capital Works programme to \$22,171,748.

Capital Plant, Equipment and Other Assets:

Expenditure to 31 December 2018 represents 41.90% of the revised budget as shown in the table below.

Property Acquisitions/Disposals:

During the December quarter Council disposed of a parcel of land at 11 Hornsey Street, Burwood. The proceeds of the sale have been approved to be placed in the Property Reserve for future major projects.

Capital Works Program:

During the December quarter review the Capital Program Working Party assessed and revised the

2018-19 Capital Works Program based on recommendations from the respective Project Managers, the following adjustments have been made:

- An additional amount of \$100,000 was required for Information Technology for the purchase of staff Laptops (\$50,000) and a new Microphone system (\$50,000) in the Council Chambers. Funding will be sourced from Reserve Funds. Reference 17 – Transfer from Reserves.
- \$700,000 for additional Infrastructure Road Works (Neiche Pde \$400,000, Victoria/Shaftebury \$110,000, Blair Avenue \$40,000 and Acton Street \$150,000) works. Funding will be sourced from Section 7.12 Contributions and Reserves. Reference 16 – Transfer from Section 7.12 and Reference 17 – Transfer from Reserves.
- \$152,000 for additional Infrastructure Kerb and Gutter Works (Acton Street \$102,000 and Blair Ave \$50,000). Funding will be sourced from Reserves. Reference 17 – Transfer from Reserves.
- \$494,000 for additional Infrastructure Stormwater and Drainage Works (Acton Street \$180,000, Blair Avenue \$133,000 and Wentworth Ave \$181,000). Funding will be sourced from Reserves. Reference 17 – Transfer from Reserves.
- Infrastructure Works – Private Works/Restorations an increase of \$109,000 associated with construction works within the Burwood Town Centre. Reference 6 - Capital Grants and Contributions.
- \$10,000 was required for the replacement of security gate at Council's Operations Centre. Funding will be sourced from Section 7.12 contributions. Reference 16 – Transfer from Section 7.12.
- An amount of \$85,000 has been included within the budget for the upgrade of the footpath surrounding the Sandakan Memorial. Funding will be sourced from Burwood Park Reserve. Reference 17 – Transfer from Reserves.
- \$150,000 has been included within the budget for preliminary works on concept plans for the redevelopment of Council's Operational Centre. Funding will be sourced from Property Reserves. Reference 17 – Transfer from Reserves.

BURWOOD COUNCIL							
Statement of Capital Income & Expenditure							
Budget Review as at 31 December 2018							
<u>Income</u>							
Adopted Variations							
Capital Expenditure	Budget	September	Amended Budget	Recommended Amendments	Forecasted Year End	Reference	Actuals
Renewal Assets (Replacement):							
Fleet Capital Acquisitions Sales	1,450,000	-	1,450,000	-	1,450,000	18	607,481
Grant Funded Capital Works	-	-	-	-	-	18	-
Roads	2,085,000	(658,837)	1,426,163	700,000	2,126,163	18	404,748
Traffic Facilities	400,000	148,000	548,000	-	548,000	18	114,737
Footpaths	1,210,000	502,500	1,712,500	-	1,712,500	18	372,960
Kerb & Gutter	443,000	-	443,000	152,000	595,000	18	113,218
Drainage	435,000	1,000,000	1,435,000	494,000	1,929,000	18	185,605
Park Improvements	620,000	4,448,860	5,068,860	85,000	5,153,860	18	396,383
Playground Equip	120,000	-	120,000	-	120,000	18	-
Street Furniture	200,000	-	200,000	-	200,000	18	2,799
Restorations & Private Works	500,000	1,216,565	1,716,565	109,000	1,825,565	18	855,776
Street Trees	-	-	-	-	-	18	16
Library Collection	120,000	-	120,000	(5,000)	115,000	18	47,738
Lib Resources	30,000	-	30,000	-	30,000	18	5,685
IT Projects	505,000	50,000	555,000	100,000	655,000	18	62,166
CCTV - Capital	-	35,000	35,000	-	35,000	18	-
Corporate Projects	400,000	-	400,000	-	400,000	18	95,391
Town Centre Beautification	600,000	-	600,000	-	600,000	18	60,251
Council Buildings	400,000	1,451,660	1,851,660	10,000	1,861,660	18	976,594
Enfield Pool	2,300,000	280,000	2,580,000	150,000	2,730,000	18	142,175
Domestic Waste Collection	85,000	-	85,000	-	85,000	18	67,656
Total Capital Expenditure	11,903,000	8,473,748	20,376,748	1,795,000	22,171,748		4,511,379
<u>Capital Funding</u>							
Rates & other Charges	(4,448,000)	(4,835,344)	(9,283,344)	5,000	(9,278,344)		
Capital Grants & Contributions	(450,000)	-	(450,000)	(109,000)	(559,000)		
Loan Funding	(1,000,000)	-	(1,000,000)	-	(1,000,000)		
Domestic Waste Charge	(85,000)	-	(85,000)	-	(85,000)		
Sale of Assets	(700,000)	-	(700,000)	-	(700,000)		
Reserves:							
Section 94 Funding	(2,450,000)	(3,563,044)	(6,013,044)	(520,000)	(6,533,044)		
Reserve Funding	(2,770,000)	(75,360)	(2,845,360)	(1,171,000)	(4,016,360)		
Total Capital Funding	(11,903,000)	(8,473,748)	(20,376,748)	(1,795,000)	(22,171,748)		

Transfers to and From Reserves:

Reference 16 – Transferred from Section 7.12 - An increase of \$520,000 relating to the following projects:

- Victoria/Shaftebury Street Road Works - \$110,000
- Neiche Parade Road Works - \$400,000
- Operations Centre Security Gate - \$10,000

Reference 17 – Transferred from Reserves - An increase of \$1,171,000 relating to the following projects:

- Blair Avenue and Acton Street Road Works - \$190,000
- Blair Avenue and Acton Street Kerb and Gutter Works - \$152,000

- Blair Avenue and Acton Street Stormwater and Drainage Works - \$313,000
- Wentworth Avenue Stormwater and Drainage Works - \$181,000
- Information Technology purchase of computers and laptops -\$50,000 and a new Microphone system - \$50,000
- Upgrade Sandakan Memorial surrounding Footpath Works - \$85,000
- Council's Operations Centre preliminary works on concept plans for the redevelopment - \$150,000

Cash and Investments Budget Review Statement

Budget Review for quarter ended 31 December 2018						
Cash & Investments						
	Opening Balance as at 1 July 2018 000s	Original Budget 2018-19 000s	Budget Review September 2018-19 000s	Budget Review December 2018-19	Projected Year End Result 000s	Actual YTD figures 000s
Total Cash, Cash Equivalents and Investment Securities	57,187	56,662	52,233	50,542	50,542	67,598
Restrictions						
External Restrictions						
Developers Contributions	18,092	1,505	-3,563	-520	15,514	15,514
Specific Purpose Unexpended Grants	692	-	-	-	692	692
Loans	1,581	-	-430	-836	315	315
Stormwater Management	-	-	-	-	-	-
Domestic Waste Management	2,308	-150	-	-	2,158	2,158
Total External Restrictions	22,673	1,355	-3,993	-1,356	18,679	18,679
Internal Restrictions						
Plant & Vehicle Replacement	2,926	-500	-	-	2,426	2,426
Employees Leave Entitlements	1,378	-	-	-	1,378	1,378
Carry Over Works	1,748	-	-82	-	1,666	1,666
Deposits, Retentions & Bonds	4,978	-	-	-	4,978	4,978
Financial Assistance Grant (advance)	516	-	-	-	516	516
Information Technology	323	-195	-50	-50	28	28
WHS	130	-	-	-	130	130
Parking Meters Replacement	227	100	-	-	327	327
Property Sales	500	-	-	-	500	500
Future Property Investment	5,917	-	-	-	5,917	5,917
LATMs	154	-	-	-	154	154
Woodstock Community Building	287	-	-	-	287	287
Election	185	90	-	-	275	275
Property Maintenance	1,400	-400	-65	-	935	935
Burwood Park Upgrade	1,000	-300	-	-85	615	615
Car Park Upgrades	574	-	-	-	574	574
Enfield Aquatic Centre Maintenance/Upgrade	1,156	-825	-	-	331	331
Road & Footpath Restorations	894	-	-	-	894	894
Insurances	1,136	150	-	-	1,286	1,286
CCTV	477	-	-105	-	372	372
Organisational Alignment	500	-	-	-	500	500
Technology Enhancements	1,250	-	-	-50	1,200	1,200
Payments in Advance	95	-	-	-	95	95
Operations Centre	750	-	-	-150	600	600
Other	200	-	-134	-	66	66
Total Internal Restrictions	28,701	-1,880	-436	-335	26,050	26,050
Total Restrictions	51,374	-525	-4,429	-1,691	44,729	44,729
Unrestricted Cash	5,813	5,813	5,813	5,813	5,813	22,869

Council's Current Unrestricted Cash is distorted as Council has received a high volume of rate revenue as at 31 December 2018. The Unrestricted Cash figure will fluctuate during the year as it will be used to fund planned expenditure.

Investments:

Council's investments have been made in accordance with its Investment Policy and the Investment Guidelines issued by the Minister for Local Government at the time of their placement. As at 31 December 2018, Council's investment portfolio stood at \$67,598,349. Council's Investments are tabled on a monthly basis as a separate report.

Cash:

Council's Finance Officers undertake a monthly bank reconciliation, which reconciles funds held in Council's General Fund Bank Account with those within its ledger. The most recent reconciliation was undertaken on 4 January 2019 for the month ending 31 December 2018. The reconciliation was approved by the Financial Operations Officer and the balance in Council's General Fund Bank Account totalled \$3,795,281.95.

Key Performance Indicators Statement

In assessing an organisation's financial position, there are a number of performance indicators that can assist to easily identify whether or not an organisation is financially sound. These indicators and their associated benchmarks, as stipulated by the Local Government Association of NSW and Shires Association of NSW are set out below.

	Performance Indicator	2018-19 Original Budget	2018-19 Budget Sept Review	2018-19 Budget Dec Review	Local Government or NSW Treasury Corp Bench Mark	December Quarter Comments
1	Operating Performance Ratio	-2.84%	-3.58%	-3.51%	Greater or equal to break-even	Tracking to revised result
2	Consolidated Budget Result	\$56,593 Surplus	\$8,391 Surplus	\$34,534 Surplus	N/A	Current budget tracking to revised result.
3	Unrestricted Current Ratio	4.9:1	5.68:1	5.26:1	Greater or equal to 1.5:1	Currently trending above the benchmark.
4	Debt Service Result	2.00%	2.04%	2.02%	Greater than Zero	Tracking as per Budget.
5	Rates and Annual Charges Outstanding %	102.45%	57.34%	40.32%	Less than or equal to 5%	For the year to 31 December 2018 Council has received \$17,366,462 in payment of Rates, Annual Charges and Interest levied which equates to 59.68% paid.
6	Building and Infrastructure Renewals Ratio	184%	230%	265%	>100% or 1:1	Ratio has improved due to works carried over from previous year and new works commissioned during quarter.

- Operating Performance Ratio** - The Operating Performance Ratio measures the ability of Council to contain operating expenditure within operating revenue excluding capital amounts. An indicator of "equal to or greater than zero percent".
- Consolidated (Budget) Result** - The Consolidated (Budget) Result is the increase or call on Council funds which shows the source and application of both Operating and Capital Income and Expenditure along with transfers to and from Reserves applicable to those activities. A Surplus is a positive financial indicator.

3. **Unrestricted Current Ratio** - The Unrestricted Current Ratio is an industry based liquidity ratio which measures the serviceability of debt. Over time the preferred level of adherence has shifted from 2:1 (or \$2 in cash for every \$1 of debt) to 1.5:1. Some local government practitioners (including independent auditors) consider 1:1 is satisfactory. Council currently projects to have a ratio of 5.26:1 at years end. A ratio greater than 1.5 is a positive financial indicator.
4. **Debt Service Result** - This ratio measures annual debt service costs (Principal and Interest) against operating result before capital excluding interest and depreciation. NSW Treasury Corporation benchmark suggests an indicator at 2% minimum. A ratio of 2.1 or more is a positive financial indicator.
5. **Rates and Annual Charges Outstanding Percentage** - This indicator measures the collectability of Council's rates and annual charges revenue and highlights the strengths of collection policies and strategies. A ratio of 5% or less is a positive financial indicator. Currently Council has collected 59.68% of the Rates and Annual Charges raised, based on these figures a collection rate for the year will be in the same percentage band as previous years, below the OLG recommended 5% level.
6. **Building and Infrastructure Renewal Ratio** - This ratio indicates the rate of renewal/replacement of existing assets as against the depreciation of the same category of Assets. A ratio greater than one is a positive financial indicator.

Budget Review Contracts and Other Expenses

Part A – Contracts Listing

The Procurement section has advised that there was one contract entered into by Council during the quarter ending 31 December 2018 which was required to be reported.

Contractors	Contract Details and purpose	Contract Value GST excl	Commencement Date	Duration of contract	Budgeted (Y/N)
TPG	TPG Network Services	\$152,712	3 December 2018	4 years	Y
Parkequip	Design, Supply and Installation Henley Park Picnic Sheds	\$139,909	20 December 2018	3 months	Y
Rees Electrical	Supply and Installation Henley Park Sports Field Lighting	\$533,940	4 December 2018	6 months	Y

Part B – Legal Expenses

Type	Individual Matter	Expenditure Year to Date	Cost Recovery / Fines YTD
Houston Dearn O'Connor	Burwood Healthy Centre 185G Burwood Rd Burwood	148.36	
Houston Dearn O'Connor	Debt recovery deed	363.00	
Houston Dearn O'Connor	56-50 Burwood Road Burwood s4.55 modification advice	726.00	
Houston Dearn O'Connor	Hui-Jie Cheng 4 Clifton Avenue Burwood	756.00	
Houston Dearn O'Connor	37 Nicholson St LJ Construction Link P/L - Development not in accordance	812.00	
Houston Dearn O'Connor	Waste Contract Advice	1,155.00	
Houston Dearn O'Connor	2 George Street, Burwood - height limitations	1,749.00	
Houston Dearn O'Connor	144A & 144B Burwood Road - Strata Subdivision	1,914.00	
Houston Dearn O'Connor	Legal - Graffiti Removal	2,536.00	
Houston Dearn O'Connor	12 Coronation Pde Enfield Sukkar Constructions Pty Ltd - DA Consent Brea	3,103.00	
Houston Dearn O'Connor	146-152 Liverpool Rd - DA 184/2016	4,139.73	
Houston Dearn O'Connor	12-16 Boundary & 13-17 Grosvenor St Croydon	4,480.00	
Houston Dearn O'Connor	4/320 Liverpool Road Enfield – unlawful use	6,393.80	
Houston Dearn O'Connor	L1/41 George St Burwood - Illegal Use-Brothel	6,889.73	
Houston Dearn O'Connor	185 Georges River Rd Croydon Park - works without approval	8,415.66	
Houston Dearn O'Connor	5 Oxford Street Burwood	9,048.54	
Houston Dearn O'Connor	10 Daisy St - Enforcement Iglesia Ni Cristo Church	20,476.06	
Houston Dearn O'Connor	A Build Pro Residential P/L Breach DA Consent 79-81 Liverpool Road Burwood		7,000.00
Matthews Folbigg Pty Ltd	27/29 Burwood Road, Burwood	330.00	
Matthews Folbigg Pty Ltd	NSW Planning Department	528.00	
Matthews Folbigg Pty Ltd	Online DA Notification	897.00	
Matthews Folbigg Pty Ltd	249 Georges River Road Croydon Park for road widening	1,152.00	
Matthews Folbigg Pty Ltd	Conflict of Interest	1,221.00	
Matthews Folbigg Pty Ltd	17 Deane Street Burwood	1,229.30	1,229.30
Matthews Folbigg Pty Ltd	39-47 Belmore Street, 6-14 Conder Street, 11-19 Wynne Avenue Burwood	1,650.00	
Matthews Folbigg Pty Ltd	12 Minna Street Burwood BD 2018.090	1,980.00	
Matthews Folbigg Pty Ltd	Clause 4.6(8)(cb) of the Burwood LEP and Exceptions to Floor Space Ratio	3,689.00	
Matthews Folbigg Pty Ltd	14 Railway Parade Burwood	3,989.00	
Matthews Folbigg Pty Ltd	39-47 Belmore, 6-14 Conder, 11-19 Wynne	5,000.50	
Matthews Folbigg Pty Ltd	Holdmark Property Group	7,891.60	
Matthews Folbigg Pty Ltd	24 Burleigh Street Burwood	12,186.83	
Matthews Folbigg Pty Ltd	31 Wyatt Avenue Burwood	22,105.34	
Matthews Folbigg Pty Ltd	21-23 Belmore Street Burwood	77,025.84	
Matthews Folbigg Pty Ltd	13 Appian Way Burwood	124,496.24	
Matthews Folbigg Pty Ltd	84-88 Burwood Road Burwood		5,019.52
Pikes & Verekers Lawyers	9-11 Oxford Street and 98 Wentworth Road Burwood	1,192.50	25,000.00
Pikes & Verekers Lawyers	Proposed acquisition of underground of public roads at Burwood and Croydon	1,250.00	
Pikes & Verekers Lawyers	241 Georges River Road, dangerous dog declaration	1,711.50	
Pikes & Verekers Lawyers	319-321 Liverpool Road Strathfield	6,170.14	
Pikes & Verekers Lawyers	CB Projects Pty Ltd - development not in accordance with consent		9,391.00
	Rates Recovery Action	17,459.55	17,459.55
		366,261.22	65,099.37
Annual Budget		625,500	

Conclusion

The current forecast budget result and the variations identified as part of the 31 December 2018 Quarter review have been undertaken by the Executive Team and the Chief Finance Officer.

There are a number of budget items that will require close monitoring and reviewed over the next six months, including Enforcement Fine income, Car Parking income, Development Application income, legal and consultancy expenses, Temporary Agency Staff expenses (the filling of current vacancies should become a priority in the next quarter), Wages and Salaries Overtime, Footpath and Kerb and Gutter Maintenance, Road and Footpath Restoration works and Enfield Aquatic Centre revenue and expenditure.

Regulatory Compliance

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

The following is the Responsible Accounting Officer (Chief Finance Officer) opinion:

"It is my opinion that the Quarterly Budget Review Statement for Burwood Council for the quarter ended 31 December 2018 indicated in the above report, takes into account and reflects the changing economic and other conditions that are currently impacting on Council. Council is in a satisfactory position however, it will be essential for the forecast Surplus to be continually monitored by the Executive and their immediate Managers during the remainder of the financial year, with particular attention being provided to maintaining revenue streams, monitoring expenditure and delivering Council's Capital Works programme to deliver the forecast surplus maintaining Council's strategies to deliver a sustainable Burwood Council."

Recommendation(s)

1. That the Budget Review Statement of the 2018-2019 Budget as at 31 December 2018, including the statement by the Responsible Accounting Officer, Chief Finance Officer, be received and noted.
2. That in accordance with Clauses 203 and 211 of the *Local Government (General) Regulation 2005*, the revised estimates of income and expenditure for 2018-2019 surplus of \$34,534, as shown in the report be approved and that Council's adopted budget be adjusted accordingly and that the expenditure and income variations projected in the report be, and are hereby voted.

Attachments

There are no attachments for this report.

(ITEM 24/19) INVESTMENT REPORT AS AT 31 JANUARY 2019

File No: 19/5222

REPORT BY CHIEF FINANCE OFFICER

Summary

In accordance with Clause 212 of the *Local Government (General) Regulation 2005*, this report details all money that Council has invested under Section 625 of the *Local Government Act 1993*.

Operational Plan Objective

2.3.1 Identify and maintain additional revenue sources to ensure financial sustainability

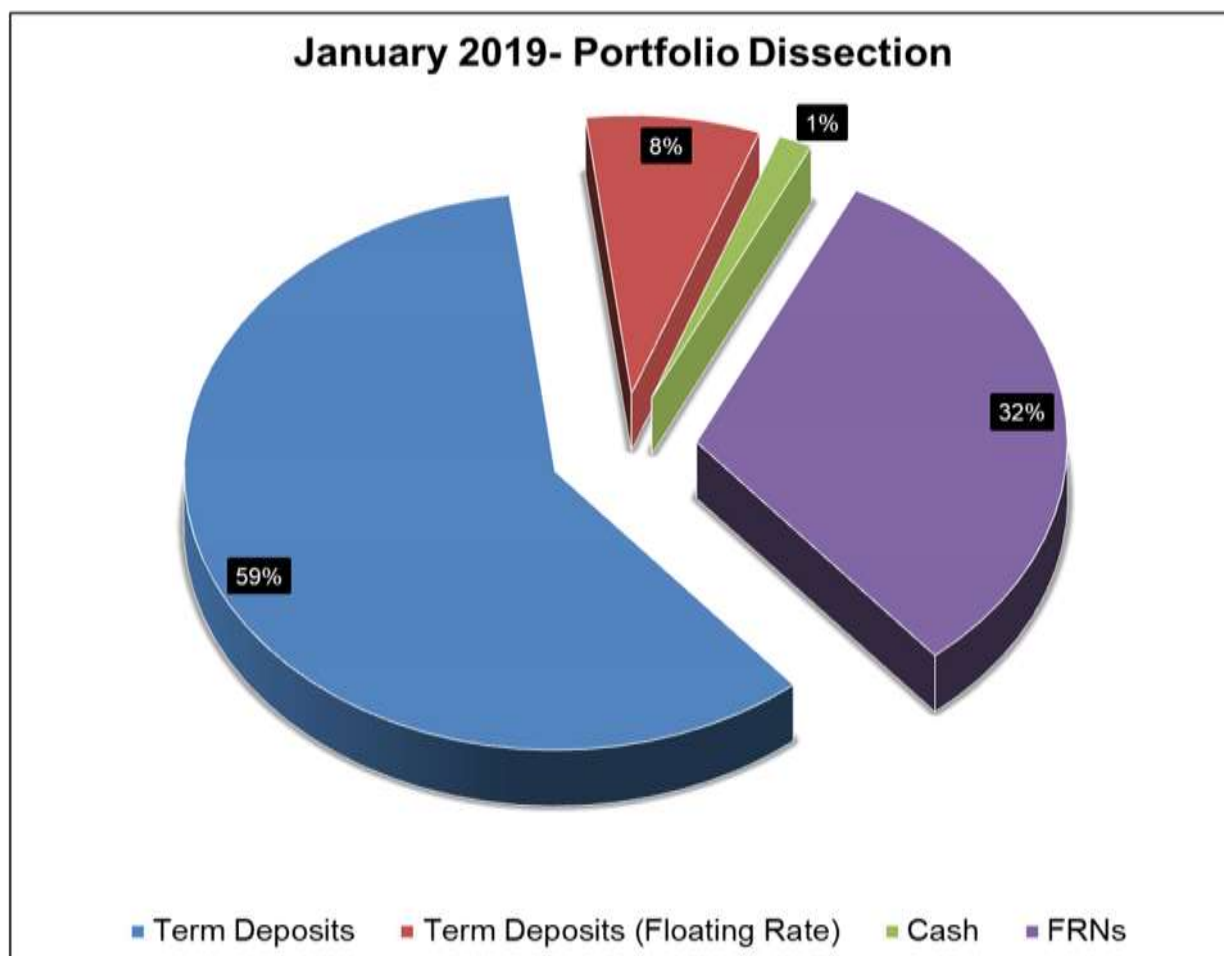
Background

As provided for in Clause 212 of the *Local Government (General) Regulation 2005*, a report listing Council's investments must be presented to Council.

Council's investments are made up of a number of direct investments some of which are managed or advised by external agencies.

Investment Portfolio

Council has a diversified investment portfolio and has a number of direct investments in term deposits. Its investment portfolio as at 31 January 2019 is:



As at 31 January 2019 Council held the following term deposits:

Purchase Date	Financial Institution	Principal Amount	Interest Rate	Investment Days	Maturity Date
06 Dec 18	Bank of Queensland	3,000,000	2.80%	182	06 Jun 19
21 Mar 18	Westpac - Quarterly Interest	3,000,000	2.70%	365	21 Mar 19
01 Jun 18	AMP Bank (Imperium)	3,000,000	2.75%	368	04 Jun 19
14 Jun 18	National Australia Bank	3,000,000	2.80%	365	14 Jun 19
11 Jul 18	National Australia Bank	3,000,000	2.80%	365	11 Jul 19
24 Jul 18	Westpac - Quarterly Interest	2,000,000	2.79%	365	24 Jul 19
31 Aug 18	Westpac	3,000,000	2.70%	365	31 Aug 19
23 Oct 17	ING Bank (Curve)	3,000,000	2.96%	730	23 Oct 19
30 Oct 17	ING Bank (Imperium)	2,000,000	2.91%	730	30 Oct 19
07 Nov 17	ING Bank (Imperium)	2,000,000	2.90%	730	07 Nov 19
07 Dec 17	ING Bank (Imperium)	3,000,000	2.83%	732	09 Dec 19
31 Aug 18	National Australia Bank	3,000,000	2.80%	731	31 Aug 20
18 Oct 18	Bankwest	3,000,000	2.70%	271	16 Jul 19
26 Nov 18	National Australia Bank	3,000,000	2.75%	365	26 Nov 19
Total		39,000,000			

The following graph highlights Council's investment balances for the past 12 months:



Council's investment portfolio is recognised at market value and some of its investments are based on the midpoint valuations of the underlying assets and are subject to market conditions that occur over the month.

Council's investment balances as at reporting date and for the previous two months are detailed in Attachment 1. Definitions on the types of investments are detailed in Attachment 2.

Investment Performance and Market Commentary

The Reserve Bank of Australia (RBA) at its 5 February 2019 Board Meeting kept the official cash rate unchanged at 1.50% per annum. According to the RBA Governor "...The global economy grew above trend in 2018, although it slowed in the second half of the year. Unemployment rates in most advanced economies are low. The outlook for global growth remains reasonable, although

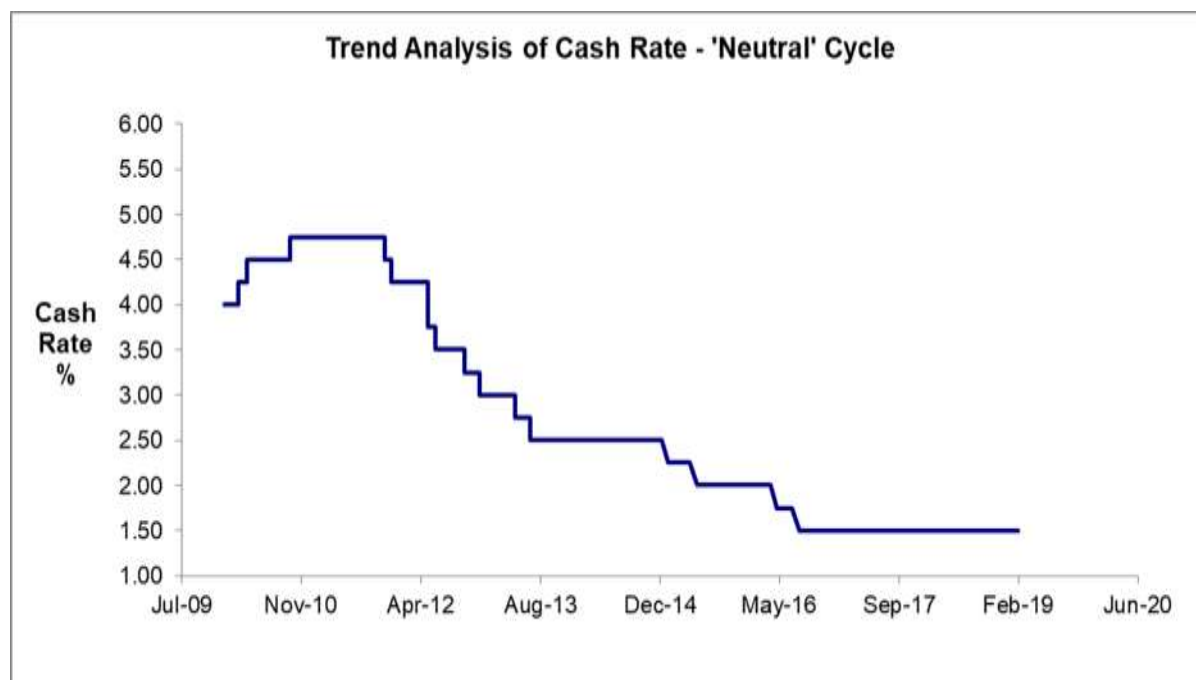
downside risks have increased. The trade tensions are affecting global trade and some investment decisions. Growth in the Chinese economy has continued to slow, with the authorities easing policy while continuing to pay close attention to the risks in the financial sector. Globally, headline inflation rates have moved lower due to the decline in oil prices, although core inflation has picked up in a number of economies.

The Australian economy is performing well. The central scenario is for GDP growth to average around 3 per cent over this year before slowing in 2020 due to slower growth in exports of resources. The growth outlook is being supported by rising business investment and higher levels of spending on public infrastructure. As is the case globally, some downside risks have increased. GDP growth in the September quarter was weaker than expected. This was largely due to slow growth in household consumption and income, although the consumption data have been volatile and subject to revision over recent quarters. Growth in household income has been low over recent years, but is expected to pick up and support household spending. The main domestic uncertainty remains around the outlook for household spending and the effect of falling housing prices in some cities.

The outlook for the labour market remains positive. The unemployment rate is 5 per cent, the lowest in six years. With the economy expected to continue to grow above trend, a further reduction in the unemployment rate is likely. The vacancy rate is high and there are reports of skills shortages in some areas. The stronger labour market has led to some pick-up in wages growth, which is a welcome development. The improvement in the economy should see some further lift in wages growth over time, although this is still expected to be a gradual process.

The low level of interest rates is continuing to support the Australian economy. Further progress in reducing unemployment and having inflation return to target is expected, although this progress is likely to be gradual. Taking account of the available information, the Board judged that holding the stance of monetary policy unchanged at this meeting would be consistent with sustainable growth in the economy and achieving the inflation target over time..." Statement by Philip Lowe, Governor: Monetary Policy Decision – 5 February 2019.

The following graph provides information on the current RBA monetary policy:



Recommendations(s)

1. That the investment report for 31 January 2019 be received and endorsed.
2. That the Certificate of the Responsible Accounting Officer be received and noted.

Attachments

- 1 [↓](#) Investment Register January 2019 1 Page
- 2 [↓](#) Investment Types 1 Page

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herby certify that the investments listed have been made in accordance with Section 832 of the Local Government Act 1983, Clause 212 of the Local Government (General) Regulation 2005 and Council's Investment Policies at the time of their placement.

Chief Finance Officer

Investment Types

Types of Investments

Council's investment portfolio consists of the following types of investment:

1. **Cash and Deposits at Call** – Cash and Deposits at Call accounts are a flexible savings facility providing a competitive rate of interest for funds which are at call (available within 24hours). These accounts enable us to control Council's cashflows along with council's General Fund Bank account. Interest rates are updated in accordance with movements in market rates.

The following investments are classified as Cash and Deposits at Call:

- Commonwealth Bank of Australia – Operating Bank Account AA-
- Commonwealth Bank of Australia – Online Saver AA-
- AMP Business Saver and Notice – At Call/Notice A

2. **Floating Rate Notes (FRN)** - FRNs are a contractual obligation whereby the issuer has an obligation to pay the investor an interest coupon payment which is based on a margin above bank bill. The risk to the investor is the ability of the issuer to meet the obligation.

FRNs are either sub-debt or senior-debt which means that they are guaranteed by the bank that issues them with sub-debt notes rated a notch lower than the bank itself. The reason for this is that the hierarchy for payments of debt in event of default is:

- a. Term Deposits
- b. Global Fixed Income Deposits
- c. Senior Debt
- d. Subordinated Debt
- e. Hybrids
- f. Preference shares
- g. Equity holders

In the case of default, the purchaser of subordinated debt is not paid until the senior debt holders are paid in full. Subordinated debt is therefore more risky than senior debt.

(ITEM 25/19) INVESTMENT REPORT AS AT 28 FEBRUARY 2019

File No: 19/8533

REPORT BY CHIEF FINANCE OFFICER

Summary

In accordance with Clause 212 of the *Local Government (General) Regulation 2005*, this report details all money that Council has invested under Section 625 of the *Local Government Act 1993*.

Operational Plan Objective

2.3.1 Identify and maintain additional revenue sources to ensure financial sustainability

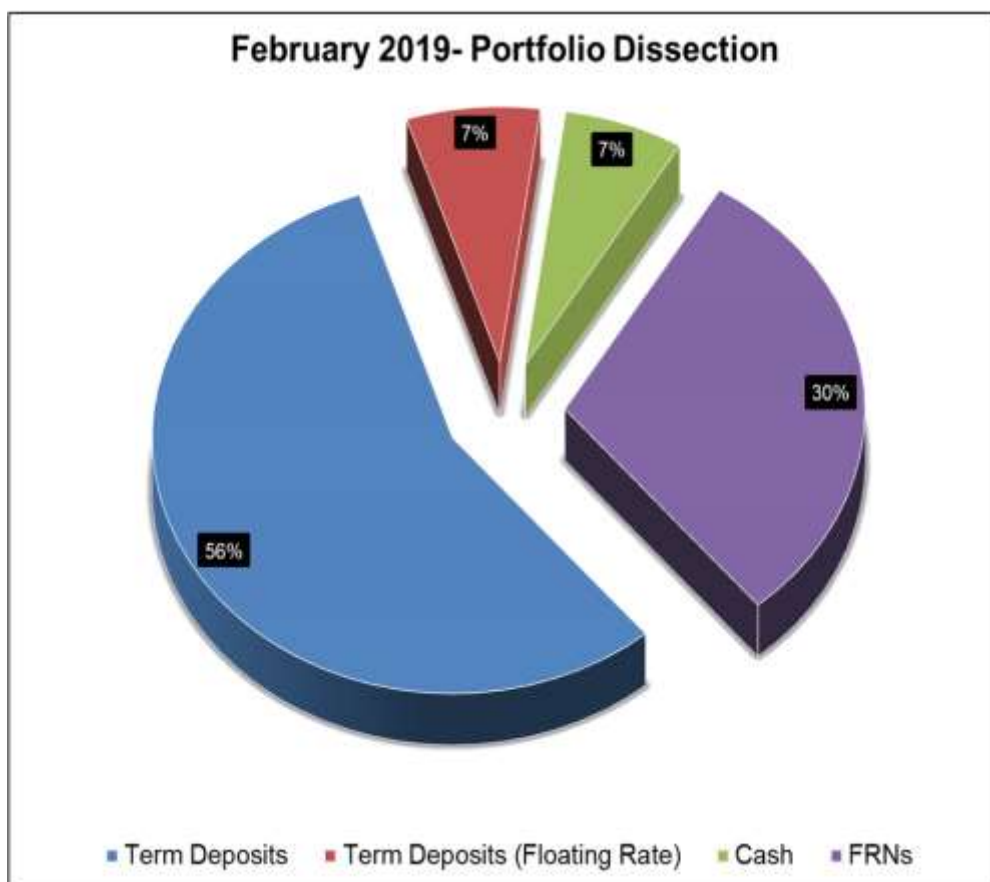
Background

As provided for in Clause 212 of the *Local Government (General) Regulation 2005*, a report listing Council's investments must be presented to Council.

Council's investments are made up of a number of direct investments some of which are managed or advised by external agencies.

Investment Portfolio

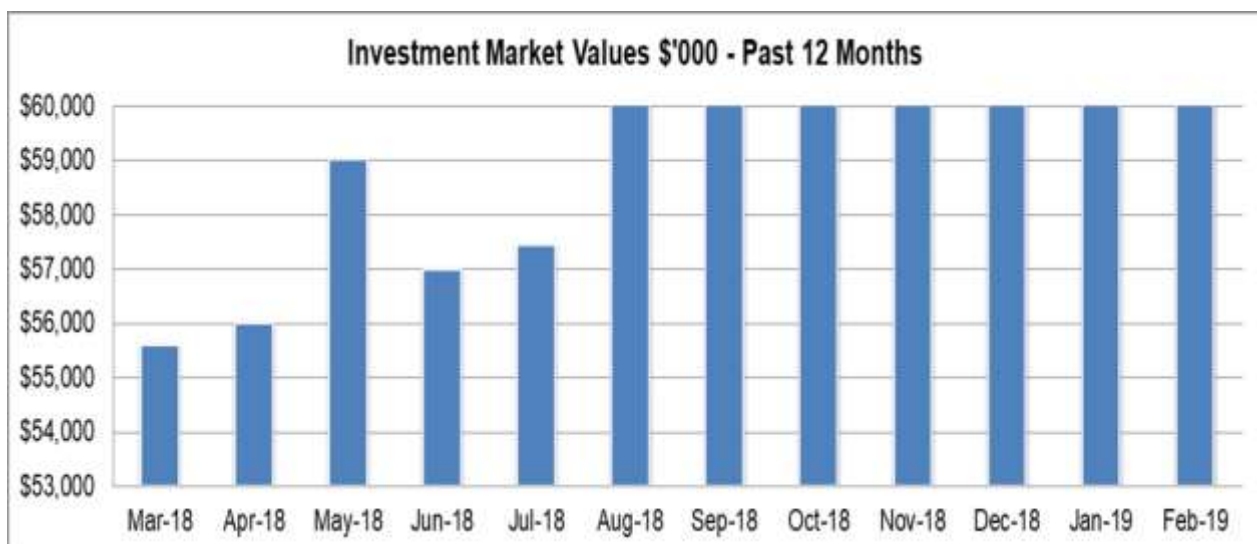
Council has a diversified investment portfolio and has a number of direct investments in term deposits. Its investment portfolio as at 28 February 2019 is:



As at 28 February 2019 Council held the following term deposits:

Purchase Date	Financial Institution	Principal Amount	Interest Rate	Investment Days	Maturity Date
06 Dec 18	Bank of Queensland	3,000,000	2.80%	182	06 Jun 19
21 Mar 18	Westpac - Quarterly Interest	3,000,000	2.70%	365	21 Mar 19
01 Jun 18	AMP Bank (Imperium)	3,000,000	2.75%	368	04 Jun 19
14 Jun 18	National Australia Bank	3,000,000	2.80%	365	14 Jun 19
11 Jul 18	National Australia Bank	3,000,000	2.80%	365	11 Jul 19
24 Jul 18	Westpac - Quarterly Interest	2,000,000	2.79%	365	24 Jul 19
31 Aug 18	Westpac	3,000,000	2.70%	365	31 Aug 19
23 Oct 17	ING Bank (Curve)	3,000,000	2.96%	730	23 Oct 19
30 Oct 17	ING Bank (Imperium)	2,000,000	2.91%	730	30 Oct 19
07 Nov 17	ING Bank (Imperium)	2,000,000	2.90%	730	07 Nov 19
07 Dec 17	ING Bank (Imperium)	3,000,000	2.83%	732	09 Dec 19
31 Aug 18	National Australia Bank	3,000,000	2.80%	731	31 Aug 20
18 Oct 18	Bankwest	3,000,000	2.70%	271	16 Jul 19
26 Nov 18	National Australia Bank	3,000,000	2.75%	365	26 Nov 19
Total		39,000,000			

The following graph highlights Council's investment balances for the past 12 months:



Council's investment portfolio is recognised at market value and some of its investments are based on the midpoint valuations of the underlying assets and are subject to market conditions that occur over the month.

Council's investment balances as at reporting date and for the previous two months are detailed in Attachment 1. Definitions on the types of investments are detailed in Attachment 2.

Investment Performance and Market Commentary

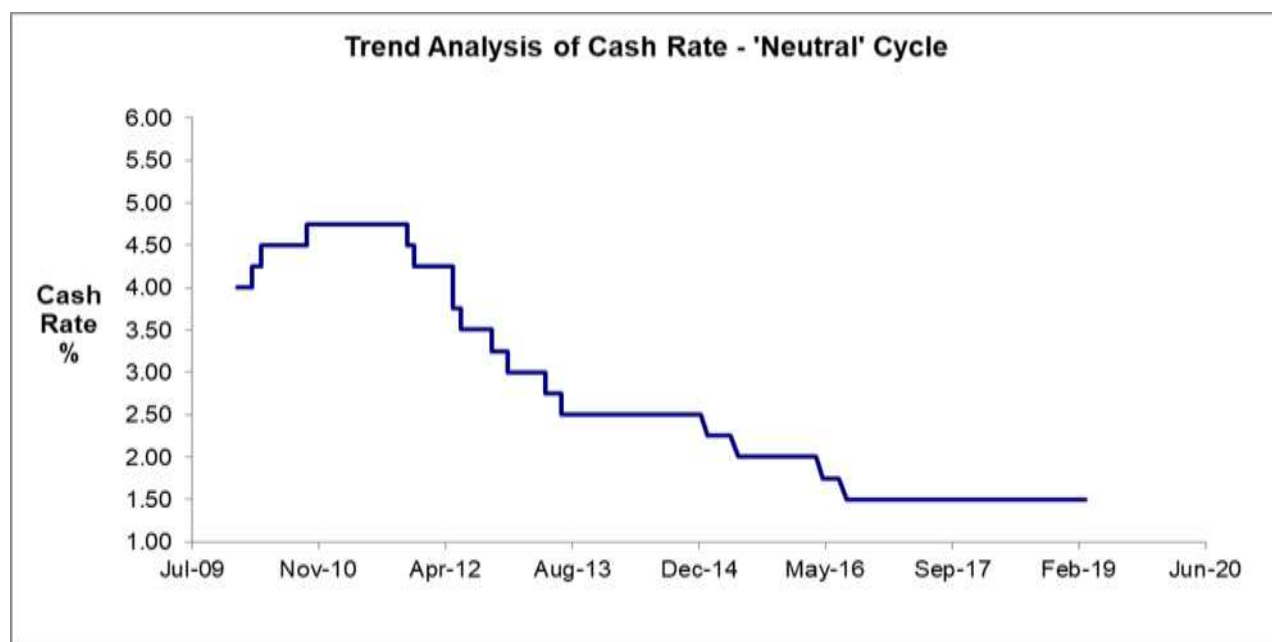
The Reserve Bank of Australia (RBA) at its 5 March 2019 Board Meeting kept the official cash rate unchanged at 1.50% per annum. According to the RBA Governor "...The global economy grew above trend in 2018, although it slowed in the second half of the year. In most advanced economies unemployment is low and wages growth has picked up. Overall, global financial conditions remain reasonable. The trade tensions which are ongoing are affecting global trade and some investment decisions. Growth in the Chinese economy has continued to slow, with the authorities easing policy while continuing to pay close attention to the risks in the financial sector.

The Australian economy is performing well, labour market remains strong with a further predicted decline in unemployment rate to around 4.75 per cent. The stronger labour market has led to some pick-up in wages growth, which is a welcome development. The improvement in the labour market

should see some further lift in wages growth over time, although this is still expected to be a gradual process. The growth outlook is being supported by rising business investment and higher levels of spending on public infrastructure and increased employment. The main domestic uncertainty continues to be the strength of household consumption in the context of weak growth in household income and falling housing prices in some cities.

The low level of interest rates is continuing to support the Australian economy. Further progress in reducing unemployment and having inflation return to target is expected, although this progress is likely to be gradual. Taking account of the available information, the Board judged that holding the stance of monetary policy unchanged at this meeting would be consistent with sustainable growth in the economy and achieving the inflation target over time...” Statement by Philip Lowe, Governor: Monetary Policy Decision – 5 March 2019.

The following graph provides information on the current RBA monetary policy:



Recommendations(s)

1. That the investment report for 28 February 2019 be received and endorsed.
2. That the Certificate of the Responsible Accounting Officer be received and noted.

Attachments

- 1 [↓](#) Investment Register February 2019 1 Page
- 2 [↓](#) Investment Types 1 Page

[illegible]

herby certify that the investments listed have been made in accordance with Section 625 of the Local Government Act 1933, Chapter 712 of the Local Government (General) Regulation 2000 and Council's Investment Policies as the one of their practioners

Wang, Y. and J. Wang, 2003. A new species of the genus *Stenobothrus* (Hymenoptera: Braconidae) from China. *Acta Zool. Sin.* 29: 100-102.

Chief Finance Officer

Investment Types

Types of Investments

Council's investment portfolio consists of the following types of investment:

1. **Cash and Deposits at Call** – Cash and Deposits at Call accounts are a flexible savings facility providing a competitive rate of interest for funds which are at call (available within 24hours). These accounts enable us to control Council's cashflows along with council's General Fund Bank account. Interest rates are updated in accordance with movements in market rates.

The following investments are classified as Cash and Deposits at Call:

- Commonwealth Bank of Australia – Operating Bank Account AA-
- Commonwealth Bank of Australia – Online Saver AA-
- AMP Business Saver and Notice – At Call/Notice A

2. **Floating Rate Notes (FRN)** - FRNs are a contractual obligation whereby the issuer has an obligation to pay the investor an interest coupon payment which is based on a margin above bank bill. The risk to the investor is the ability of the issuer to meet the obligation.

FRNs are either sub-debt or senior-debt which means that they are guaranteed by the bank that issues them with sub-debt notes rated a notch lower than the bank itself. The reason for this is that the hierarchy for payments of debt in event of default is:

- a. Term Deposits
- b. Global Fixed Income Deposits
- c. Senior Debt
- d. Subordinated Debt
- e. Hybrids
- f. Preference shares
- g. Equity holders

In the case of default, the purchaser of subordinated debt is not paid until the senior debt holders are paid in full. Subordinated debt is therefore more risky than senior debt.

(ITEM 26/19) LOCAL GOVERNMENT ELECTION - SEPTEMBER 2020

File No: 19/7039

REPORT BY DEPUTY GENERAL MANAGER CORPORATE, GOVERNANCE & COMMUNITY

Summary

Council resolved at its meeting of 5 February 2019 to appoint the NSW Electoral Commission to conduct its September 2020 Election.

Since then Council received a circular (19-02) from the Office of Local Government (OLG) in relation to the administration of the September 2020 elections. The circular notifies Councils that the Government has appointed the Independent Pricing and Regulatory Tribunal (IPART) to conduct a review of the costs of running local government elections in NSW. The circular also provides for an extension of the deadline for councils to make a decision on the administration of their elections.

Operational Plan Objective

2.1.3 Ensure transparency and accountability in decision making

2.2.2 Develop strategic partnerships that will benefit the area and community

Background

At the Council Meeting of 5 February 2019, Council was advised that a decision was required by 11 March 2019 in relation to whom would conduct its September 2020 election, and at that meeting Council resolved to appoint the NSW Electoral Commission for the task, despite not being able to obtain a formal quotation from the Commission.

On 8 February 2019, the OLG released a Circular (19-02) which provides an extension on the deadline to make a decision about the administration of Council Elections, due to the review by the Independent Pricing and Regulatory Tribunal (IPART) into the costs of local government elections.

The Circular outlines that:

- The Government has approved a review by IPART of the costs of conducting Local Government Elections in NSW. The matters for consideration under the review's terms of reference are provided in the attachment to this report.
- The purpose of IPART's review is to ensure a robust methodology for determining costs is applied, in order to minimise the financial burden on councils and ratepayers and to ensure local government elections are conducted efficiently and cost effectively.
- IPART has been requested to report to the Minister for Local Government recommending a costing methodology to be applied in determining the amount the NSW Electoral Commissioner (NSWEC) charges councils to administer their ordinary elections.
- In undertaking its review, IPART is expected to consult with relevant stakeholders including councils.
- IPART is to report to the Minister for Local Government by **30 August 2019**.
- As the outcomes of the IPART review may impact on the administration of the September 2020 Council Election, it is proposed to introduce legislation in the first parliamentary sitting period of 2019 following the NSW State Election to amend the *Local Government Act 1993* to extend the deadline for councils to make a decision on the administration of their elections under sections 296AA and 296. This deadline will be extended to **1 January 2020**.

Proposal

Under the proposed amendments to the *Local Government Act 1993* (the Act), Council will have until 1 January 2020 to resolve to make a decision on the administration of their elections and enter into any arrangements with the NSW Electoral Commission.

IPART is expected to consult with relevant stakeholders during this review, including Councils. The Minister of Local Government is expected to receive a report from IPART by 30 August 2019.

Although Council has resolved to appoint the NSW Electoral Commission to undertake its September 2020 Election pending the outcome of the IPART report and further direction by the Minister, Council will be required to reassess its determination.

Planning or Policy Implications

Once the IPART report is released by the Minister and further information is provided, a further report will be tabled to Council.

Financial Implications

No Financial Implication.

Conclusion

Under the proposed legislative amendments described in Circular 19-02, Councils will have until 1 January 2020 to decide whether or not the NSW Electoral Commission or the General Manager will administer Council Elections in September 2020.

A further report will be tabled to Council once the IPART report is released and further information is provided by the Minister of Local Government.

Recommendation(s)

1. That Council receives and notes this report.
2. That a further report be tabled to Council on the receipt of the IPART report and further direction by the Minister.

Attachments

1 [19-02 OLG Circular - IPART Review of Election Costs](#)

Office of
Local Government

Circular to Councils

Circular Details	19-02 / 8 February 2019 / A635365
Previous Circular	18-43 <i>Council decisions on the administration of the September 2020 elections</i>
Who should read this	Councillors / General Managers / Council Governance Staff
Contact	Council Governance Team / 02 4428 4100 / olg@olg.nsw.gov.au
Action required	Information

IPART review of the costs of conducting local government elections and extension of the deadline for councils to make a decision on the administration of their elections

What's new or changing?

- The Government has approved a review by the Independent Pricing and Regulatory Tribunal (IPART) of the costs of conducting local government elections in NSW. The matters for consideration under the review's terms of reference are provided in the attachment to this circular.
- The purpose of IPART's review is to ensure a robust methodology for determining costs is applied, in order to minimise the financial burden on councils and ratepayers and to ensure local government elections are conducted efficiently and cost effectively.
- IPART has been requested to report to the Minister for Local Government recommending a costing methodology to be applied in determining the amount the NSW Electoral Commissioner (NSWEC) charges councils to administer their ordinary elections.
- In undertaking its review, IPART is expected to consult with relevant stakeholders including councils.
- IPART is to report to the Minister for Local Government by **30 August 2019**.
- As the outcomes of the IPART review may impact on the administration of the September 2020 council elections, it is proposed to introduce legislation in the first parliamentary sitting period of 2019 following the NSW State Election to amend the *Local Government Act 1993* (the LGA) to extend the deadline for councils to make a decision on the administration of their elections under sections 296AA and 296. This deadline will be extended to **1 January 2020**.

What this will mean for your council

- Under the proposed amendments, councils will have until **1 January 2020** to resolve to make a decision on the administration of their elections and enter into any arrangements with the NSWEC.

Key points

- Under section 296AA of the LGA, councils must, at least 18 months before each ordinary council election, resolve to either enter into an election arrangement with the NSWEC to administer its elections or that elections are to be administered by the council's general manager.

- Under section 296(3)(b), where a council enters into an election arrangement with the NSWEC, the arrangement must be entered into no later than 15 months before the ordinary council elections.
- Under section 296(5), councils can enter into an election arrangement for the NSWEC to administer an ordinary council election less than 15 months before the election if the council has resolved to enter into the election arrangement and the NSWEC is satisfied that there are exceptional circumstances that make it necessary or desirable for the election to be administered by the NSWEC.

Where to go for further information

- Contact OLG's Council Governance Team by telephone on 02 4428 4100 or by email at olg@olg.nsw.gov.au
- Contact the NSW Electoral Commission by telephone on 02 9290 5999.



Tim Hurst
Chief Executive

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3

Attachment**Matters for consideration under IPART's terms of reference****Matters for consideration**

IPART is requested to provide a report to the Minister for Local Government recommending a costing methodology to be applied in determining the amount the NSWEC charges councils which use the NSWEC to administer their ordinary elections.

The purpose of the IPART's review is to ensure a robust methodology for determining costs is applied, in order to minimise the financial burden on councils and ratepayers and ensure local government elections are conducted efficiently and cost effectively.

In undertaking the review, IPART is to:

- review the NSWEC's existing methodology for determining the amount to be charged to councils which use the NSWEC to conduct their elections
- consider whether it is appropriate for the amount charged to be limited to the direct and unavoidable costs of conducting the council's election
- have regard to the market for electoral services in which the NSWEC operates
- have regard to any differences in the costs involved in conducting elections in metropolitan and regional areas
- have regard to any other matters it considers relevant.

Consultation

IPART should consult with relevant stakeholders and NSW Government agencies as part of its review. It may also hold public hearings and publicly release a draft report.

Reporting

IPART is to submit its final report to the Minister for Local Government by Friday 30 August 2019.

(ITEM 27/19) 2019 NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT - CANBERRA

File No: 19/8740

REPORT BY GENERAL MANAGER

Summary

This report is to inform Council that the 2019 National General Assembly of Local Government (NGA19) will be held at the National Convention Centre in Canberra from 16 to 19 June 2019. Council may nominate one Voting Delegate, and Council is requested to consider the delegate and nominated observers to attend the NGA19.

The theme for the NGA19 is "Future Focused" to mark the 25th anniversary celebrating past achievements whilst firmly focused on the future.

NGA19 this year will consider what councils can do today to get ready for the challenges, opportunities and changes that pave the path ahead.

Operational Plan Objective

2.5.1 Provide strong leadership and advocacy on behalf of the community.

Financial Implications

Below are approximate costs per person to attend the conference in Canberra:

	\$
▪ Early Bird Registration Fee (Payment due by 10 May 2019)	989.00
▪ Return Air Fare to Canberra	200.00 - 300.00
Or Travel by Car <input checked="" type="checkbox"/>	
▪ Hotel Accommodation per Night	350.00 – 450.00
<input checked="" type="checkbox"/> Councillors using private vehicles will be reimbursed in accordance with the Rate payable for claims by Council Officers under the <i>NSW (Local Government) State Award</i> , subject to the cost not exceeding the average air fare of other Councillors who flew or, if no other Councillor flew, the Flexible Economy Class air fare to the same destination available at the time of the conference.	

The above expenses will be met by Council in accordance with the Councillors' Expenses and Facilities Policy. If spouses/partners wish to accompany Councillors to the NGA19, all costs, including any additional air fare/accommodation costs, must be met by the Councillor or spouse/partner.

Recommendation(s)

1. That Council nominate the Mayor, or his alternative, as the Voting Delegate for the 2019 National General Assembly of Local Government (NGA19) to be held from 16 to 19 June 2019 in Canberra.
2. That Council determines the attendance of Councillors and the General Manager as observers at the 2019 National General Assembly of Local Government (NGA19) from 16 to 19 June 2019 in Canberra.

3. That Councillors confirm to the General Manager by 12 April 2019 of their availability to attend.

Attachments

There are no attachments for this report.

(ITEM IN7/19) PETITIONS

File No: 19/7210

REPORT BY DEPUTY GENERAL MANAGER, CORPORATE, GOVERNANCE & COMMUNITY

Summary

Petitions received are reported to Council on a monthly basis. Council has received one Petition since the November 2018 Council Meeting.

Operational Plan Objective

2.1.1 Provide opportunities for discussions and report decisions back to the community

Background

Date Received	Petition Subject	No. of Households and Businesses within the LGA	No. of Households outside the LGA	Responsible Council Division
21 January 2019	Residents objecting to BD.2018.133 for a five storey mixed use development at 197-197A Burwood Road Burwood	4	0	Land, Infrastructure and Environment

Comments

That Council notes that the Petition has been referred to the appropriate Council Officers for attention.

No Decision – Information Item Only**Attachments**

There are no attachments for this report.

(ITEM IN8/19) ANSWERS TO QUESTIONS WITHOUT NOTICE - COUNCIL MEETING OF 5 FEBRUARY 2019

File No: 19/7301

REPORT BY GENERAL MANAGER

Summary

At the Council Meeting of 5 February 2019 the following Questions without Notice (QWN) were submitted by Councillors. Council Officers responded to the QWN and Councillors were notified on 13 February 2019 of the outcome of the QWN.

Operational Plan Objective

2.1.3 Ensure transparency and accountability in decision making.

These are now submitted as part of the Council Agenda for Public Notification:

QUESTIONS WITHOUT NOTICE – COUNCIL MEETING OF 5 FEBRUARY 2019	
Question	Response
<p><u>Councillor Joseph Del Duca</u></p> <p>Question 1:</p> <p>Can the Council be provided with a summary of previous conversations (last electoral cycle) between Council, Westfield, Coles and Woolworths in relation to the abandoned shopping trolleys?</p>	<p><u>Group Manager Compliance</u></p> <p>Council conducted several meetings with relevant trolley stakeholders trying to resolve the issue of trolleys being left on public roadways. The objective of the meetings was to obtain assistance from relevant trolley stakeholders in preventing the trolleys from leaving the shopping complex. The meetings were conducted between August 2017 and October 2017 and involved: The Mayor of Burwood, Burwood Council's General Manager, Burwood Council officers, and representatives from Coles, Woolworths, Westfield, Burwood Plaza and trolley collecting agencies. The meetings were discontinued as it became evident that the relevant trolley stakeholders (Coles, Woolworths, Westfield and Burwood Plaza) did not believe a firm enforcement would be the most beneficial strategy in relation to their customers' experience. As a result, Council opted to commence formal enforcement in December 2017.</p> <p>Other actions undertaken by Council to prevent the activity prior to enforcement include:</p> <ol style="list-style-type: none"> 1. 5000 informational letters sent to local residents living within the vicinity of the shopping centres 2. Media articles in local papers such as the Inner West Courier, as well as a Daily Telegraph article featuring the Mayor and the

QUESTIONS WITHOUT NOTICE – COUNCIL MEETING OF 5 FEBRUARY 2019

	<p>State Member for Strathfield, in December 2018</p> <ol style="list-style-type: none"> 3. Relevant Trolley owners were given a “hotspot” list of known locations where trolleys are dumped in an effort for trolley collectors to conduct more frequent patrols 4. Leaflets were handed to customers outside Westfield educating and informing shoppers to not dump trolleys on roadways and report people committing the act 5. A letter was sent to four State Ministers seeking legislative amendments.
<p><u>Councillor George Mannah</u></p> <p>Question 1:</p> <p>What can Council do to clean up existing graffiti from private buildings, State Government structures, Ausgrid, etc. i.e. on telegraph poles, traffic lights, railway bridge and other structures and shops etc in our centre?</p>	<p><u>Group Manager Operations</u></p> <p>Council is not authorised to remove graffiti from structures owned by other authorities such as Ausgrid, Roads & Maritime Services and Sydney Trains. Council reports graffiti on other authorities’ assets via their online reporting tools and via VandalTrak. Council has been advised previously that graffiti around road ways and train lines present access and safety issues, which is why it can take time for removal to occur.</p>
<p><u>Councillor George Mannah</u></p> <p>Question 2:</p> <p>What is the timeframe to clean graffiti reported on Council structures and other government agencies and non-government agencies, structures and private buildings?</p>	<p><u>Group Manager Operations</u></p> <p>The average turnaround time for the removal of graffiti from Council structures is seven days, unless it is deemed offensive, in which case it is removed within 24 hours of notification or observation.</p> <p>Council sought legal advice on the possibility of removing graffiti from privately owned homes and businesses in 2018. The advice received was that Council would be liable for any damage caused to brick work or paint work, regardless of whether the building owner consented to Council undertaking the cleaning works. Therefore, it is not considered advisable for Council to remove graffiti from structures that are not Council owned. Council is still working with its legal team to ascertain whether it is possible to produce an indemnity document for property owners to release Council from liability for inadvertent damage caused by the cleaning process. It cannot be confirmed whether this will be possible at this time.</p> <p>In good faith, Council does remove offensive graffiti from private property that is accessible</p>

QUESTIONS WITHOUT NOTICE – COUNCIL MEETING OF 5 FEBRUARY 2019	
	from a public place, despite the liability risk. These removals are undertaken as quickly as possible (timeframe dependent on the matching of paint colours etc).
<u>Councillor Heather Crichton</u> Question 1: Has the General Manager considered implementing a peer review for the determination of our paint colour schemes for heritage properties?	<u>Group Manager Strategic Planning, Heritage & Place Planning</u> A Councillor workshop on a number of Heritage items is scheduled for 23 April 2019. The topic of paint colours and schemes permitted on Heritage listed items and in Heritage Conservation Areas will be included.
<u>Councillor Lesley Furneaux-Cook</u> Question 1: Enfield Pool – please clarify if a Senior's Card is accepted as a concession to entry given that neighbouring Councils do? i.e Inner West/Canterbury.	<u>Group Manager Community, Library and Aquatic Services</u> Valid NSW Seniors Card and/or Centrelink issued Aged and Disability Pension cards are accepted for Pensioner Concession admission to the Enfield Aquatic Centre (EAC).
<u>Councillor Lesley Furneaux-Cook</u> Question 2: A resident has reported incidents of cars dropping off passengers at Burwood Station, exiting Deane Street against the one-way direction. Does Council patrol this area at morning peak hour?	<u>Group Manager Compliance</u> Council's Compliance Officers do patrol this location during the stated period, however, Council is only delegated to enforce parking offences. Vehicles driving down the street in the wrong direction is a traffic offence and the Police are the regulatory authority for these offences. Council has informed Burwood Police of the complaint with a request for increased patrols.
<u>Councillor Lesley Furneaux-Cook</u> Question 3: What communication strategies does Council have/use to highlight the maintenance of local Council nature strips and does Council communicate to investors (not owners) regarding the maintenance of local Council nature strips?	<u>Group Manager Operations</u> Burwood Council provides lawn mowing services to aged pensioners, people with medical conditions that prevent them from undertaking the task, and residents of homes with no other areas of lawn. Residents on corner blocks with two nature strips are also eligible for Council to mow the larger of the two nature strips. Council relies on the community spirit of residents to mow their nature strips so that Council resources can be directed to those who most need the service. This is an approach followed by the majority of Australian Councils use the same (or similar) approach, being that those who can are expected to mow their nature strips.

QUESTIONS WITHOUT NOTICE – COUNCIL MEETING OF 5 FEBRUARY 2019

	Council writes to residents in response to complaints about unkempt nature strips, however, this reactive correspondence is currently the only form of communication on this issue, given that it is a typical expectation Australia-wide.
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No Decision – Information Item Only**Attachments**

There are no attachments for this report.