



CODE OF CONDUCT 2023

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PART 1: Introduction

This Code of Conduct (Code) incorporates the provisions of the Model Code of Conduct for Local Councils in NSW (the Model Code) which is made under section 440 of the *Local Government Act 1993* (the Act) and the Local Government (General) Regulation 2021 (the Regulation).

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

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

Section 440 of the *Local Government Act 1993* requires every council to adopt a Code of Conduct that incorporates the provisions of the Model Code. A council's adopted Code of Conduct may also include provisions that supplement the Model Code and that extend its application to persons who are not "council officials" for the purposes of the Model Code (eg volunteers, contractors and members of advisory committees).

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

Councillors, administrators, councils' staff members, 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 Local Government Act 1993 which 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.

PART 2: Definitions

In this Code the following terms have the following meanings:

Administrator	An administrator of a council appointed under the Act (other than an administrator appointed under section 66)
Advisory Committee	A committee that does not have any delegated functions.
Chairperson	Means the Mayor when chairing a Council meeting or any person chairing a meeting of a Council committee
Chief Executive Officer	Appointed by the governing body, the most senior Council staff member (referred to in the Act as the general manager)
Conduct	Includes acts and omissions
Council	Edward River Council
Council Committee	A committee established by Council comprising of councillors, Council staff or other persons to whom Council has delegated functions (known as a section 355 committee) and Council's Audit, Risk and Improvement Committee
Council Committee member	A person other than a councillor or Council staff member who is a member of a Council Committee other than an Advisory Committee, and a person other than a councillor who is a member of the Council's Audit, Risk and Improvement Committee
Councillor	Any person elected or appointed to civic office, including the Mayor
Council official	Any councillor, Council staff member, administrator, Council Committee member, delegate of Council and, for the purposes of clause 4.16 of the Model Code, Council adviser
Council staff members	Employees of Edward River Council
Delegate of Council	A person (other than a councillor or Council staff member) 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	Referred to at Edward River Council as the Chief Executive Officer
Joint Organisation	A regional organisation of councils. Edward River Council is a member of the Riverina & Murray Joint Organisation (RAMJO)
Local Planning Panel	A local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i> .
Mayor	Edward River Council Mayor
Pecuniary interest	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
OLG	The NSW 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

Procedures	The <i>Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW</i> , prescribed in the Regulation
The Act	The <i>Local Government Act 1993</i> .
The Regulation	The <i>Local Government (General) Regulation 2021</i>

PART 3: General Conduct Obligations

General conduct

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

Fairness and equity

- 3.3 Council officials must consider issues consistently, promptly and fairly and deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.4 Council officials must take all relevant facts known to them, or that they should be reasonably aware of, into consideration and have regard to the particular merits of each case. They 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 Council officials must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.
- 3.7 For the purposes of this Code, "harassment" is any form of behaviour towards a person that:
- a) is not wanted by the person;
 - b) offends, humiliates or intimidates the person, and
 - c) creates a hostile environment.

Bullying

- 3.8 Council officials 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; or
 - 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; and
 - g) legitimately implementing a Council policy or administrative processes.

Work health and safety

- 3.12 All Council officials, including councillors, have statutory duties under the *Work Health and Safety Act 2011* (WHS Act) and must comply with their duties under the WHS Act and their responsibilities under any policies or procedures adopted by Council to ensure workplace health and safety. Specifically, they must:
- a) take reasonable care for their own health and safety;
 - b) take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons;
 - c) comply, so far as reasonably practicable, with any reasonable instruction that is given to ensure compliance with the WHS Act and any policies or procedures adopted by Council to ensure workplace health and safety;
 - d) cooperate with any reasonable policy or procedure of Council relating to

- workplace health or safety that has been notified to Council staff;
- e) report accidents, incidents, near misses, to the Chief Executive Officer or such other staff member nominated by the Chief Executive Officer, and take part in any incident investigations; and
 - f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WHS Act in relation to the same matter.

Land use planning, development assessment and other regulatory functions

- 3.13 Council officials must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. Council officials 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, Council officials must ensure that no action, statement or communication between themselves and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

Binding caucus votes

- 3.15 Councillors must not participate in binding caucus votes in relation to matters to be considered at a Council or Council 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 Council or Council committee, irrespective of the personal views of individual members of the group on the merits of the matter before Council or Council committee.
- 3.17 Clause 3.15 does not prohibit councillors from discussing a matter before Council or Council committee prior to considering the matter in question at a Council or Council 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 Council on an external body.

Obligations in relation to meetings

- 3.19 Councillors must comply with rulings by the Chairperson at Council and Committee meetings unless a motion dissenting from the ruling is passed.
- 3.20 Council officials must not engage in bullying behaviour (as defined under this Part)

towards the Chairperson, other Council officials or any members of the public present during Council or Council committee meetings or other proceedings of Council (such as, but not limited to, workshops and briefing sessions).

- 3.21 Council officials must not engage in conduct that disrupts Council or Council committee meetings or other proceedings of 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 Councillors must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of Council, or of a Council committee. Without limiting this clause, councillors must not:
- a) leave a meeting of Council or a Council committee for the purposes of depriving the meeting of a quorum, or
 - b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or
 - c) deliberately seek to impede the consideration of business at a meeting.

PART 4: Pecuniary Interests

What is a pecuniary interest?

- 4.1 A pecuniary interest is an interest in which a Council official has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to them or a person referred to in clause 4.3.
- 4.2 A Council official 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 that might be made 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, a Council official will have a pecuniary interest in a matter if the pecuniary interest is:
- a) their interest, or
 - b) the interest of their spouse or de facto partner, a relative, or their partner or employer, or
 - c) a company or other body of which they, or their nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- a) a Council official's "relative" is any of the following:
 - i. parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child;
 - ii. 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 A Council official will not have a pecuniary interest in relation to a person referred to in sub-clauses 4.3(b) or (c):
- a) if they are unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
 - b) just because the person is a member of, or is employed by, Council or a statutory body, or is employed by the Crown, or
 - c) just because the person is a member of, or a delegate of 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 A Council official does not have to disclose the following interests for the purposes of this Part:
- 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 Code;

- 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 by 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 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) they are a Council committee member, 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;
- g) an interest they 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 they have arising from the proposed making by Council of an agreement between 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 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 they have arising from the making by Council of a contract or agreement with a 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 Council in respect of similar matters with other residents of the area:
 - i. the performance by Council at the expense of a 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 Council by or under any Act conferring functions on 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; or
- o) an interest arising from the appointment of a councillor to a body as a representative or delegate of 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 a spouse or de facto partner.

What disclosures must be made by a designated person?

4.8 Designated persons include:

- a) the Chief Executive Officer;

- b) other senior staff of Council for the purposes of section 332 of the Act;
- c) a person (other than a member of the senior staff of Council) who is a Council staff member or a delegate of Council and who holds a position identified by 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; and
- d) a person (other than a member of the senior staff of Council) who is a member of a Council committee identified by Council as a Council committee whose members are designated persons because the functions of the committee involve the exercise of 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 Council committee and the member's private interest.

4.9 A designated person:

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

4.10 A designated person must disclose in writing to the Chief Executive Officer (or if the person is the Chief Executive Officer, to 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 Council's staff 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 Chief Executive Officer 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 Chief Executive Officer must, as soon as practicable after the disclosure is made, be laid on the table at a Council meeting and 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 Council staff, other than a designated person, must disclose in writing to their Manager, Director or the Chief Executive Officer, 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 Council staff members, Managers, Directors or the Chief Executive Officer must, on receiving a disclosure under clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by Council advisors?

- 4.16 A person who, at the request or with the consent of Council or a Council committee, gives advice on any matter at any meeting of Council or Council 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 4.17, a "Council committee member" includes a member of Council staff who is a member of the Council committee.

What disclosures must be made by a councillor?

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

Disclosure of interests in written returns

- 4.21 A councillor or designated person must make and lodge with the Chief Executive Officer 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 three months after:
- a) becoming a councillor or designated person, and
 - b) 30 June of each year, and
 - c) the councillor or designated person becoming aware of an interest they are required to disclose under Schedule 1 that has not been previously disclosed in a return lodged under sub-clauses 4.21 (a) or (b).
- 4.22 A person need not make and lodge a return under clause 4.21, sub-clauses (a) and (b) if:
- a) they made and lodged a return under that clause in the preceding three months, or
 - b) they have ceased to be a councillor or designated person in the preceding three 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.
- 4.24 The Chief Executive Officer must keep a register of returns required to be made and lodged with the Chief Executive Officer.
- 4.25 Returns required to be lodged with the Chief Executive Officer under sub-clauses 4.21(a) and (b) must be tabled at the first Council meeting after the last day the return is required to be lodged.
- 4.26 Returns required to be lodged with the Chief Executive Officer under sub-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 2018 and any guidelines issued by the Information Commissioner.

Disclosure of pecuniary interests at meetings

- 4.28 A councillor or a Council committee member who has a pecuniary interest in any matter with which Council is concerned, and who is present at a meeting of Council or Council committee at which the matter is being considered, must disclose the nature of the interest to the meeting prior to the matter being considered.
- 4.29 The councillor or Council committee member must not be present at (including by way of electronic meeting attendance), or in sight of, the meeting of Council or Council committee:
 - a) at any time during which the matter is being considered or discussed, or
 - b) at any time during which Council or Council committee is voting on any question in relation to the matter.
- 4.30 In the case of participation at a meeting of the Board of the 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 Council or Council committee meeting must be recorded in the minutes.
- 4.32 A general notice may be given to the Chief Executive Officer in writing by a councillor or a Council committee member to the effect that the councillor or Council committee member, or the councillor's or Council committee member's spouse, de facto partner or relative, is:
 - a) a member of, or in the employment of, a specified company or other body, or
 - b) a partner of, or in the employment of, a specified person.

Such a notice is, unless and until the notice is withdrawn or until the end of the term of 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 Council or Council committee after the date of the notice.

- 4.33 A councillor or a Council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or Council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.34 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.35 Despite clause 4.29, a councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.36 Clause 4.29 does not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- a) the matter is a proposal relating to:
 - i. the making of a principal environmental planning instrument applying to the whole or a significant portion of Council's area, or
 - ii. the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of Council's area, and
 - b) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and
 - c) the councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.
- 4.37 A special disclosure of a pecuniary interest made for the purposes of sub-clause 4.36(c) must:
- a) be in the form set out in schedule 3 of this Code and contain the information required by that form, and
 - b) be laid on the table at a meeting of 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 Council is concerned to be present at a meeting of Council or Council committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
 - b) that it is in the interests of the electors of 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 Council or Council committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.38, must still disclose the interest they have in the matter in accordance with clause 4.28.

PART 5: Non-pecuniary conflicts of interest

What is a non-pecuniary conflict of interest?

- 5.1 Non-pecuniary interests are private or personal interests a Council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this Code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that the Council official could be influenced by a private interest when carrying out official Council 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 the Council official to identify any non-pecuniary conflict of interest he or she may have in relevant matters and 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 a Council official has a non-pecuniary conflict of interest in a relevant matter, the Council official must think about how others would view the situation.

Managing non-pecuniary conflicts of interest

- 5.6 Where a Council official has a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, they 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 Chief Executive Officer, such a disclosure is to be made to the staff member's Manager or Director. In the case of the Chief Executive Officer, such a disclosure is to be made to the Mayor.
- 5.7 If a disclosure is made at a Council or Council 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 a non-pecuniary conflict of interest is managed 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 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 Council and the organisation are potentially in conflict in relation to the particular matter;
- e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1; and
- 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 the Council official has the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
- b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a Council or Council committee meeting, by managing the conflict of interest as if the Council official had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.

5.11 If the Council official determined that he or she has a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest, the Council official must also explain in writing why he or she considers that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.

5.12 If the Council official is a member of staff of Council other than the Chief Executive Officer, 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 relevant Manager or Director. In the case of the Chief Executive Officer, 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 sub-clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.

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

represent the organisation or group on the Council committee.

Political donations

- 5.15 Councillors should be aware that matters before Council or Council committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.
- 5.16 Where a councillor has received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
 - b) the major political donor has a matter before Council,
- the councillor 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 he or she had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A disclosure made under this clause must be recorded in the minutes of the meeting.
- 5.17 For the purposes of this Part:
- a) a “reportable political donation” has the same meaning as it has in section 6 of the *Electoral Funding Act 2018*; and
 - b) “major political donor” has the same meaning as it has in the *Electoral Funding Act 2018*.
- 5.18 Councillors should note that political donations that are not a “reportable political donation”, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of clause 5.9 and take the appropriate action to manage them.
- 5.19 Despite clause 5.16, a councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

Loss of quorum as a result of compliance with this Part

- 5.20 A councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:
- a) the matter is a proposal relating to:
 - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of Council’s area, or
 - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of Council’s area, and
 - b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person’s principal place of residence, and
 - c) the councillor discloses the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part in accordance with clause 5.6.

- 5.21 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a Council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of Council or Council committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
 - b) that it is in the interests of the electors/community for the area to do so.
- 5.22 Where the Minister exempts a councillor or Council committee member from complying with a requirement under this Part under clause 5.21, the councillor or Council committee member must still disclose any interests they have in the matter to which the exemption applies, in accordance with clause 5.6.

Other business or employment

- 5.23 The Chief Executive Officer must not engage, for remuneration, in private employment, contract work or other business outside the service of Council without the prior approval of Council, made as a resolution of Council.
- 5.24 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of Council that relates to the business of Council or that might conflict with the staff member's Council duties unless they have notified the Chief Executive Officer in writing of the employment, work or business and the Chief Executive Officer has given their written approval for the staff member to engage in the employment, work or business.
- 5.25 The Chief Executive Officer may at any time prohibit a member of Council staff from engaging, for remuneration, in private employment, contract work or other business outside the service of Council that relates to the business of Council, or that might conflict with the Council staff member's duties.
- 5.26 A member of Council staff must not engage, for remuneration, in private employment, contract work or other business outside the service of Council if prohibited from doing so.
- 5.27 Council staff must ensure that any outside employment, work or business they engage in will not:
- a) conflict with their official duties;
 - b) involve using confidential information or Council resources obtained through their work with Council including where private use is permitted;
 - c) require them to work while on Council duty;
 - d) discredit or disadvantage Council; or
 - e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

Personal dealings with Council

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

PART 6: Personal benefit

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

Gifts and benefits

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

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

- 6.5 Council officials 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 their part, or may be perceived to be intended or likely to influence them in carrying out their 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 Council being in or entering into a customer–supplier relationship with the competition organizer; or
- g) personally benefit from reward points programs when purchasing on behalf of Council.

6.6 Where a Council official receives a gift or benefit of any value other than one referred to in clause 6.2, they must disclose this promptly to their Manager, Director or the Chief Executive Officer in writing. The recipient, Manager, Director or Chief Executive Officer must ensure that, at a minimum, the following details are recorded in Council's gift register:

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

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

Gifts and benefits of token value

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

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

Gifts and benefits of more than token value

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

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

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

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

‘Cash-like’ gifts

- 6.13 For the purposes of sub-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 telephone 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 Council officials must not use their position to influence other Council officials in the performance of their official functions to obtain a private benefit for themselves or for somebody else. Councillors 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 Council officials must not take advantage (or seek to take advantage) of their status or position with Council, or of functions they perform for Council, in order to obtain a private benefit for themselves or for any other person or body.

PART 7: Relationships between Council officials

Obligations of councillors and administrators

- 7.1 Council is a body politic. The councillors or administrator/s are the governing body of Council. Under section 223 of the Act, the role of the governing body of a council includes the development and endorsement of the council's strategic plans, programs, strategies and policies 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 Chief Executive Officer by way of Council or Council 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 Council staff or a Council delegate in the exercise of their functions;
 - c) contact a member of Council staff of 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 Council and the Chief Executive Officer
 - d) contact or issue instructions to any of Council's contractors, including 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 Council's external auditor or the Chair of Council's Audit Risk and Improvement Committee (ARIC) to provide information reasonably necessary for the external auditor or the AIRC to effectively perform their functions.

Obligations of staff

- 7.4 Under section 335 of the Act, the role of the Chief Executive Officer includes conducting the day-to-day management of Council in accordance with Council's strategic plans, programs, strategies and policies, implementing without undue delay, lawful decisions of 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 Council staff members must:
- a) give their attention to the business of 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 Council, whether or not the staff member agrees with or approves of them; and
 - e) ensure that any participation in political activities outside the service of Council does not interfere with the performance of their official duties.

Inappropriate interactions

- 7.6 Council officials must not engage in any of the following inappropriate interactions:
- a) Councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters;
 - b) Council staff approaching councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters;
 - c) subject to clause 8.6, Council staff refusing to give information that is available to other councillors to a particular councillor;
 - d) Councillors and administrators who have lodged an application with Council, discussing the matter with Council staff in staff-only areas of Council;
 - e) Councillors and administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the councillor or administrator has a right to be heard by the panel at the meeting;
 - f) Councillors and administrators being overbearing or threatening to Council staff
 - g) Council staff being overbearing or threatening to councillors or administrators;
 - h) Councillors and administrators making personal attacks on Council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this Code in public forums including social media;
 - i) Councillors and administrators directing or pressuring Council staff in the performance of their work, or recommendations they should make;
 - j) Council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community;
 - k) Council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals;
 - l) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by Council associated with current or proposed legal proceedings unless permitted to do so by the Chief Executive Officer or, in the case of the Mayor or administrator, unless they are exercising their functions under section 226 of the Act.

PART 8: Access to information and Council resources

Councillor and administrator access to information

- 8.1 The Chief Executive Officer is responsible for ensuring that councillors and administrators can access information necessary for the performance of their official functions. The Chief Executive Officer 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 Chief Executive Officer must provide councillors and administrators with the information necessary to effectively discharge their official functions.
- 8.3 Council staff 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 Council staff 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 Council has determined to make the information available under the GIPA Act.

Councillors and administrators to properly examine 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 Chief Executive Officer or public officer determine to refuse access to information requested by a councillor or administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the councillor or administrator to perform their official functions (see clause 8.2) and whether they have disclosed a conflict of interest in the matter the information relates to that would preclude their participation in consideration of the matter (see clause 8.6). The Chief Executive Officer 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 as a Council official, the Council official 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 themselves, or any other person or body, from any information to which they have access by virtue of their office or position with Council; and
 - d) only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

- 8.10 Council officials must maintain the integrity and security of confidential information in their possession, or for which they are responsible.
- 8.11 In addition to general obligations relating to the use of Council information, Council officials must:
- a) only access confidential information that they have been authorised to access and only do so for the purposes of exercising their official functions;
 - b) protect confidential information;
 - c) only release confidential information if they 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 their official position for the purpose of securing a private benefit for themselves or for any other person
 - f) not use confidential information with the intention to cause harm or detriment to Council or any other person or body
 - g) not disclose any confidential information discussed during a confidential session of a Council or Council committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

Personal information

- 8.12 When dealing with personal information, Council officials must comply with:
- a) the *Privacy and Personal Information Protection Act 1998*;
 - b) the *Health Records and Information Privacy Act 2002*;
 - c) the Information Protection Principles and Health Privacy Principles;
 - d) Council's Privacy Management Plan; and
 - e) the Privacy Code of Practice for Local Government.

Use of Council resources

- 8.13 Council officials must use Council resources ethically, effectively, efficiently and carefully in exercising their 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; and
 - c) functions associated with the role of the local consultative committee.
- 8.15 Council officials must be scrupulous in their 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 Council officials must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for their benefit or the benefit of any other person or body.
- 8.17 Council officials must not use Council resources (including Council staff), property or facilities for the purpose of assisting their 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 Council officials must not use Council's 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 their election campaign or the election campaign of others, or
 - b) for other non-official purposes.
- 8.19 Council officials must not convert any property of Council to their own use unless this arrangement has been properly authorised and documented.

Internet access

- 8.20 Council officials 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 Council's reputation.

Council record keeping

- 8.21 Council officials must comply with the requirements of the State Records Act 1998 and Council's records management policy.

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

Councillor access to Council buildings

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

PART 9: Maintaining the integrity of this Code

Complaints made for an improper purpose

- 9.1 Council officials 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 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; or
 - i) to prevent or disrupt the effective administration of this Code under the Procedures.

Detrimental action

- 9.3 Council officials 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 Council officials 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; or
 - e) disciplinary proceedings.

Compliance with requirements under the Procedures

- 9.6 Council officials must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 Council officials 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 Council officials must comply with a practice ruling made by the OLG under the Procedures.

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

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

Complaints alleging a breach of this Part

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

Schedule 1

Disclosures of interests and other matters in written returns submitted under clause 4.21

Part 1: Preliminary

Definitions

1. For the purposes of the Schedules to this Code, the following definitions apply:

address means:

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

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

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

- a) the allotment of shares in a company;
- b) the creation of a trust in respect of property;
- c) the grant or creation of a lease, mortgage, charge, easement, license, 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 a 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 sub-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 subclause 4.21(b), 30 June of the year in which the return is made;
- c) in the case of a return made under sub-clause 4.21(c), the date on which the councillor or designated person became aware of the interest to be disclosed;

relative includes any of the following:

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

travel includes accommodation incidental to a journey.

Matters relating to the interests that must be included in returns

2. **Interests etc. outside New South Wales:**

A reference in this Schedule or in Schedule 2 to a disclosure concerning a corporation or other thing includes any reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.

3. **References to interests in real property:**

A reference in this Schedule or in Schedule 2 to real property in which a councillor or designated person has an interest includes a reference to any real property situated in Australia in which the councillor or designated person has an interest.

4. **Gifts, loans etc. from related corporations:**

For the purposes of this Schedule and Schedule 2, gifts or contributions to travel given, loans made, or goods or services supplied, to a councillor or designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.

Part 2: Pecuniary interests to be disclosed in returns

Real property

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

Gifts

9. A person making a return under clause 4.21 of this Code must disclose:
 - a) a description of each gift received in the period since 30 June of the previous financial year, and
 - b) the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
 - a) it did not exceed \$100, unless it was among gifts totalling more than \$100 made by the same person during a period of 12 months or less, or
 - b) it was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
 - c) the donor was a relative of the gift recipient, or
 - d) subject to paragraph (a), it was received prior to the person becoming a councillor or designated person.
11. For the purposes of clause 10 of this schedule, the amount of a gift other than money is an amount equal to the value of the property given.

Contributions to travel

12. A person making a return under clause 4.21 of this Code must disclose:
- a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
 - b) the dates on which the travel was undertaken, and
 - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.
13. A financial or other contribution to any travel need not be disclosed under this clause if it:
- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or Council vehicles), or
 - b) was made by a relative of the traveller, or
 - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
 - d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
 - e) was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
 - f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
 - g) subject to paragraph (d) it was received prior to the person becoming a councillor or designated person.
14. For the purposes of clause 13 of this Schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

Interests and positions in corporations

15. A person making a return under clause 4.21 of this Code must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
 - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
 - c) the nature of the interest, or the position held, in each of the corporations, and
 - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
 - b) required to apply its profits or other income in promoting its objects, and

- c) prohibited from paying any dividend to its members.
- 17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
- 18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a councillor or designated person.

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

- 19. A person making a return under clause 4.21 of this Code must disclose whether they were a property developer, or a close associate of a corporation that, or an individual who, is a property developer, on the return date.
- 20. For the purposes of clause 19 of this Schedule:
close associate, in relation to a corporation or an individual, has the same meaning as it has in section 53 of the *Electoral Funding Act 2018*; and
property developer has the same meaning as it has in Division 7 of Part 3 of the *Electoral Funding Act 2018*.

Positions in trade unions and professional or business associations

- 21. A person making a return under clause 4.21 of the Code must disclose:
 - a) the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and
 - b) the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
 - c) a description of the position held in each of the unions and associations.
- 22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a councillor or designated person.

Dispositions of real property

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

25. A disposition of real property need not be disclosed if it was made prior to a person becoming a councillor or designated person.

Sources of income

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

Debts

31. A person making a return under clause 4.21 of this Code must disclose the name and address of each person to whom the person was liable to pay any debt:
- a) on the return date, and
 - b) at any time in the period since 30 June of the previous financial year.
32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.21 whether or not the amount, or any part of the amount, to be paid was due and payable on the

return date or at any time in the period since 30 June of the previous financial year, as the case may be.

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

Discretionary disclosures

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

Schedule 2

Form of written return of interests submitted under clause 4.21

‘Disclosures by councillors and designated persons’ return

1. The pecuniary interests and other matters to be disclosed in this return are prescribed by Schedule 1 of the *Model Code of Conduct for Local Councils in NSW* (the Model Code of Conduct).
2. Council officials completing the first return required to be lodged with the Chief Executive Officer after becoming a councillor or designated person, are not required to complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on their circumstances at the return date, that is, the date on which they became a councillor or designated person.
3. A Council official who has previously lodged a return with the Chief Executive Officer and is completing this return for the purposes of disclosing a new interest that was not disclosed in the last return lodged with the Chief Executive Officer, 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 they became a councillor or designated person, (whichever is the later date), to the return date which is the date of becoming aware of the new interest to be disclosed in the updated return.
4. A Council official who has previously lodged a return with the Chief Executive Officer and is submitting a new return for the new financial year, must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.
6. If there is insufficient space for all the information required to be disclosed, an appendix may be attached which is to be properly identified and signed by .
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.

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

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

Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2018* and any guidelines issued by the Information Commissioner.

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

Disclosure of pecuniary interest and other matters by:	<i>[full name of councillor or designated person]</i>	
As at:	<i>[return date]</i>	
In respect of the period:	<i>From: [date]</i>	<i>To: [date]</i>
Councillor's or designated person's signature:		
Date return signed:		
A. REAL PROPERTY		
Street address of each parcel of real property in which I had an interest at the Nature of Interest return date/any time since 30 June		
B. SOURCES OF INCOME		
1. Sources of income I reasonably expect to receive from an occupation in the period commencing on the first day after the return date and ending on the following 30 June Sources of income I received from an occupation at any time since 30 June		
Description of occupation		
Name and address of employer or description of office held (if applicable)		
Name under which partnership conducted (if applicable)		
2. Sources of income I reasonably expect to receive from a trust in the period commencing on the first day after the return date and ending on the following 30 June Sources of income I received from a trust since 30 June		
Name and address of settlor		
Name and address of trustee		
3. Sources of other income I reasonably expect to receive in the period commencing on the first day after the return date and ending on the following 30 June Sources of other income I received at any time since 30 June		
<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/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?	
Yes/No	
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/any time since 30 June	
I. DISPOSITIONS OF PROPERTY	
1. Particulars of each disposition of real property to me (including the street address of the affected property) at any time since 30 June as result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time	
2. Particulars of each disposition of property to a person by any other person under arrangements made by me (including the street address of the affected property), being dispositions made at any time since	

30 June, as a result of which I obtained either wholly or in part, the use and benefit of the property	
J. DISCRETIONARY DISCLOSURES:	

Schedule 3

Form of special disclosure of pecuniary interest submitted under clause 4.37

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

Important information

This information is being collected for the purpose of making a special disclosure of pecuniary interests under sub-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 a person will have a pecuniary interest in a matter because of the pecuniary interest of their spouse, de facto partner or relative or because their business partner or employer has a pecuniary interest. A Council official will also have a pecuniary interest in a matter because they, their nominee, business partner or 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 a spouse's, 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.

A Council official must not make a special disclosure that they 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 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 interest by	<i>[full name of councillor]</i>
in the matter of	<i>[insert name of environmental planning instrument]</i>
which is to be considered at a meeting of the	<i>[name of Council or Council committee, as the case requires]</i>
to be held on the	<i>[date] day of [month] [year]</i>
PECUNIARY INTEREST	
Address of the affected principal place of residence of the councillor or an associated person, company or body	<i>[the identified land]</i>
Relationship of identified land to councillor <i>[tick or cross one box]</i>	<input type="checkbox"/> The councillor has an interest in the land (eg is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise) <input type="checkbox"/> An associated person of the councillor has an interest in the land <input type="checkbox"/> An associated company or body of the councillor has an interest in the land
MATTER GIVING RISE TO PECUNIARY INTEREST ¹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) ² <i>[tick or cross one box]</i>	<input type="checkbox"/> The identified land <input type="checkbox"/> Land that adjoins or is adjacent to or in proximity to the identified land
Current zone/planning control	<i>[insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>
<p>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.</p> <p>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.</p>	
Proposed change of zone/planning control	<i>[insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>
Effect of proposed change of zone/planning control on councillor or associated person	<i>[insert one of the following: "appreciable financial gain" or "appreciable financial loss"]</i>
<i>[if more than one pecuniary interest is to be declared, fill in a new form for each additional interest]</i>	
Councillor's signature	
Date	
This form is to be retained by Council's Chief Executive Officer and included in full in the Minutes of the Meeting	

Version control

Title	Code of Conduct			
ECM Doc Set ID	271633			
Date First Adopted	18 April 2019			
Council Minute No.	2019/04/89			
Document Owner	Director Corporate Services			
Responsible Officer	Governance and Corporate Support Coordinator			
Version Number	Modified By	Modifications Made	Date modified and Approved by Council	Council Minute Number
1	Cian Middleton	Adopted by Council	18 April 2019	2019/04/89
2	Michelle Siena	New Model of Conduct as per OLG Circular 20-32 dated 14 August	24 September 2020	2020/181
3	Greg Briscoe-Hough	Adopted by new Council unamended	11 January 2022	220111/7.4
4	Senior Governance Advisor	Updated to reflect legislative changes and OLG's model Code	19 September 2023	2023/0919/12.3

Document control

Related Legislation	<i>Local Government Act 1993</i>
Related Policies	Nil
Related Documents	Council's Code of Meeting Practice Council's Procedures for the Administration of the Code of Conduct