



**Hurstville** City Council

# **Code of Meeting Practice**

Released: 18 August 2014

# Document Status and Version Control

## Ownership and Version Control

|                           |  |
|---------------------------|--|
| Document Name:            | Code of Meeting Practice                     |
| Document Status:          | Adopted                                      |
| Version:                  | 11   |
| Date:                     | 18 August 2014                               |
| Author:                   | Katherine Garske                             |
| Document Owner:           | Manager Corporate Governance & Records       |
| Authorised By:            | Council Resolution                           |
| Distribution:             | Public, Councillors & Staff via the Internet |
| Council Report Reference: | CCL242-14                                    |
| Council Meeting Date:     | 6 August 2014                                |
| Document No:              | CD12/28                                      |
| File No                   | 12/1695                                      |

## Change History

| Version | Release Date     | Author           | Reason for Change   |
|---------|------------------|------------------|---|
| 1.0     | May 1994         | Warren Park      | Adopted   |
| 2.0     | August 1998      | Warren Park      | Amended – changes to Regulation   |
| 3.0     | September 1999   | Warren Park      | Amended – new Regulation  |
| 4.0     | 12 Feb 2003      | Warren Park      | Amended – Committee restructure   |
| 5.0     | 24 May 2006      | Warren Park      | Amended – general review FIN158-06  |
| 6.0     | 19 Dec 2007      | Warren Park      | Amended – FIN091-07   |
| 7.0     | 24 Mar 2010      | Warren Park      | Amended – CCL039-10   |
| 8.0     | August 2010      | Warren Park      | Amended – general review (update to DLG Meeting Practice Note 16 August 2009)                             |
| 9.0     | 25 August 2010   | Bruce Cooke      | Amended – CCL173-10   |
| 9.1     | 15 Dec 2010      | Katherine Garske | Amended – Minute No. 384 (15/12/10)   |
| 9.2     | July 2011        | Katherine Garske | Draft proposed for adoption   |
| 9.3     | August 2011      | Katherine Garske | Draft for Public Exhibition   |
| 9.4     | September 2011   | Katherine Garske | Draft for adoption by Council   |
| 10.0    | 28 Sept 2011     | Katherine Garske | Adopted – CCL206-11   |
| 10.1    | 12 December 2012 | Katherine Garske | Removal of Standing Committees; requirement to stand when speaking and Planning items referral to Council |
| 10.2    | 11 July 2013     | Katherine Garske | Draft for Public Exhibition   |
| 10.3    | 11 Sept 2013     | Katherine Garske | Draft for adoption by Council   |
| 11.0    | 18 Sept 2013     | Katherine Garske | Adopted (CCL306-13)   |
| 11.1    | 29 May 2014      | Katherine Garske | Draft for Public Exhibition   |
| 11.2    | 31 July 2014     | Katherine Garske | Draft for adoption by Council   |
| 12.0    | 6 August 2014    | Katherine Garske | Adopted by Council (CCL242-14)  |

## Related Documents

This document should be read in conjunction with:

- Local Government Act, 1993
- Local Government (General) Regulation 2005
- Office of Local Government Practice Note 16, August 2009
- Office of Local Government Circular to Councils 10-10

## Table of Contents

|   |    |
|---|----|
| PART 1 - PRELIMINARY .....  | 5  |
| 1 Citation .....  | 5  |
| 2 Definitions .....   | 5  |
| 3 Act and Regulation .....  | 5  |
| 4 Notes to text .....   | 5  |
| PART 2 - CONVENING OF, AND ATTENDANCE AT, COUNCIL MEETINGS .....                                  | 6  |
| 5 Frequency of meetings of the Council .....  | 6  |
| 6 Extraordinary Meetings .....  | 6  |
| 7 Councillor Workshops, briefings and informal meetings .....                                     | 6  |
| 8 Notice of meetings .....  | 7  |
| 9 Quorum (S368) .....   | 7  |
| 10 What happens when a quorum is not present .....  | 7  |
| 11 Presence at Council meetings (includes Leave of Absence) .....                                 | 8  |
| PART 3 - PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS .....                                      | 8  |
| 12 Chairperson of Council meetings .....  | 8  |
| 13 Chairperson to have precedence (cl 237 Regs) .....   | 9  |
| 14 Chairperson's duty with respect to motions (cl 238 Regs) .....                                 | 9  |
| 15 Confirmation of Minutes .....  | 9  |
| 16 Order of business .....  | 10 |
| 17 Business papers for Council meetings .....   | 11 |
| 18 Giving notice of business (cl 241 Regs) .....  | 11 |
| 19 Business paper for extraordinary meeting (cl 242 Regs) .....                                   | 12 |
| 20 Official minutes (Mayoral Minute) .....  | 12 |
| 21 Report of a Departmental representative to be tabled at Council meeting (cl<br>244 Regs) ..... | 12 |
| 22 Notice of motion .....   | 12 |
| 23 Motions to be seconded .....   | 13 |
| 24 How subsequent amendments may be moved .....   | 13 |
| 25 Motions of Dissent (cl 248 Regs) .....   | 13 |
| 26 Petitions may be presented to the Council .....  | 13 |
| 27 Questions may be put to Councillors and Council employees .....                                | 13 |
| 28 Questions With Notice (QWN) .....  | 14 |
| 29 Mode of address .....  | 14 |
| 30 Limitation as to number of speeches (cl 250 Regs) .....  | 14 |
| 31 Motions put without debate .....   | 15 |
| 32 Voting at Council meetings (cl 251 Regs) .....   | 15 |
| 33 Decisions of the Council .....   | 16 |
| 34 Rescinding or altering resolutions (S372) .....  | 16 |
| 35 Rescission Motions – Council Meetings .....  | 17 |
| 36 Rescission Motion Format .....   | 17 |
| 37 Motions of adjournment .....   | 17 |
| PART 4 - KEEPING ORDER AT MEETINGS .....  | 18 |
| 38 Questions of order (cl 255 Regs) .....   | 18 |
| 39 Acts of disorder (cl 256 Regs) .....   | 18 |
| 40 How disorder at a meeting may be dealt with (cl 257 Regs) .....                                | 19 |
| 41 Power to remove persons from meeting after expulsion resolution (cl 258<br>Regs) .....         | 19 |
| PART 5 - COUNCIL COMMITTEES .....   | 19 |
| 42 Committee of the Whole (Closed Session) .....  | 19 |
| 43 Council may appoint committees and determine frequency of meetings ...                         | 20 |

|    |   |    |
|----|---|----|
| 44 | Functions of committees (cl 261 Regs).....  | 20 |
| 45 | Notice of committee meetings to be given (cl 262 Regs).....                             | 20 |
| 46 | Non-members entitled to attend committee meetings (cl 263 Regs) .....                   | 20 |
| 47 | Procedure in committees (cl 265 Regs).....  | 21 |
| 48 | Chairperson and deputy chairperson of committees (cl 267 Regs) .....                    | 21 |
| 49 | Absence from committee meetings (cl 268 Regs) .....                                     | 21 |
| 50 | Reports of committees (cl 269 Regs).....  | 21 |
| 51 | Disorder in committee meetings (cl 270 Regs).....                                       | 21 |
| 52 | Committee may expel certain persons from its meetings (cl 271 Regs) ....                | 21 |
|    | PART 6 - PECUNIARY INTERESTS.....   | 22 |
| 53 | Pecuniary interest.....   | 22 |
|    | PART 7 - PRESS AND PUBLIC .....   | 22 |
| 54 | Public notice of meetings.....  | 22 |
| 55 | Attendance at meetings of the Council .....   | 23 |
| 56 | Public Participation at Council / Committee Meetings.....                               | 23 |
| 57 | Public access to correspondence and reports .....                                       | 24 |
|    | PART 8 - MISCELLANEOUS .....  | 25 |
| 58 | Information relating to proceedings at closed meetings not to be disclosed (S664) ..... | 25 |
| 59 | Inspection of the minutes of the Council or a committee .....                           | 25 |
| 60 | Tape recording of meeting of the Council or a committee prohibited (cl 273 Regs) 25     |    |
| 61 | Tape recording of meeting by the Council or a committee.....                            | 26 |
| 62 | Certain circumstances do not invalidate Council decisions (S374).....                   | 26 |
| 63 | Referral of Planning and Development Matters to Council .....                           | 26 |
| 64 | Amendment of Code.....  | 27 |

## PART 1 - PRELIMINARY

### 1 Citation

This Code may be cited as the Hurstville City Council Code of Meeting Practice.

**Note:** *The Office of Local Government, Meetings Practice Note No 16 (August 2009) and Council's Code of Conduct should be read in conjunction with this Code.*

### 2 Definitions

(1) In this Code:

**amendment**, in relation to an original motion, means a motion moving an amendment to that motion;

**chairperson**,

(a) in relation to a meeting of the Council - means the person presiding at the meeting as provided by clause 13 of this Code; and

(b) in relation to a meeting of a committee - means the person presiding at the meeting as provided by clause 48 of this Code;

**committee** means a committee appointed or elected by the Council in accordance with clause 43(1) or the Council when it has resolved itself into a committee of the whole;

**leave of Council** means with the approval of Council;

**procedural motion** means a motion dealing with the conduct of a meeting e.g.

- items brought forward (suspension of standing orders)

- moving items in a block

**record** means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by a Councillor or an employee of the Council and, in particular, includes the minutes of meetings of the Council or of a committee of the Council;

**the Act** means the Local Government Act 1993;

**the Code** means the Hurstville City Council Code of Meeting Practice; and

**the Regulation** (Regs) means the Local Government (General) Regulation 2005.

(2) Except as otherwise provided, expressions used in this Code, which are defined in the dictionary at the end of the Local Government Act (Act), have the meanings set out in the dictionary.

### 3 Act and Regulation

(1) This Code is made pursuant to section 360 (2) of the Act.

(2) It incorporates relevant provisions of the Regulation and the Act.

(3) In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.

### 4 Notes to text

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

References to the Act are shown as (SXXX)

References to the Regulations are shown as (cl XXX Regs)

## **PART 2 - CONVENING OF, AND ATTENDANCE AT, COUNCIL MEETINGS**

### **5 Frequency of meetings of the Council**

- (1) The Council is required to meet at least 10 times each year, each time in a different month. (S365)
- (2) The Council shall, by resolution, set the time, date and place of meetings of the Council.
- (3) Notwithstanding (2) above, the Mayor may, at his/her discretion, call meetings of the Council, notice of which shall be given in accordance with this Code. [The Notice is issued by the General Manager].
- (4) That Council Meetings terminate at 11:00pm unless a Motion for a half-hour extension of time to 11:30pm and, if necessary, for a further half-hour to 12:00 midnight, be carried.
- (5) The meeting shall be adjourned at 12:00 midnight, until such day and time as shall be fixed by the Chairperson, the majority of Councillors present or the General Manager (cl 233 Regs).
- (6) Not less than 3 clear days' notice of an adjourned meeting shall be given to Members.
- (7) Notwithstanding (4) above, Council may so determine to carry on business past midnight to finalise business rather than incurring costs to call an adjourned meeting and such action shall not invalidate any decisions made past midnight (S374).

**Note:** *The Council normally meets on the first and third Wednesday of the month, with meetings customarily commencing at 7:00pm*

### **6 Extraordinary Meetings**

- (1) If the Mayor receives a request in writing signed by at least two (2) Councillors, the Mayor must call an extraordinary meeting of the Council to be held as soon as practicable but in any event within 14 working days after the receipt of the request. (S366). The Mayor may be one of the two (2) Councillors.
- (2) For the purpose of this Clause, a working day is a day that is not a Saturday, Sunday or public holiday.
- (3) That if the Mayor considers a matter to be so urgent that it cannot wait for submission to a night within the 14 day period where another scheduled meeting of the Council is being held, the Mayor may then call an extraordinary meeting of the Council to be held as soon as practicable, but in accordance with Clause 8 (Notice of meetings) so as to allow not less than 3 clear days' notice of the meeting, unless it is an emergency where less than 3 clear days' notice may be given (see cl 8[3]).
- (4) Further, meetings shall generally be called for 7:00pm on a weekday however they may be called at some other time should this be necessary and appropriate.

**Note:** *Extraordinary Council Meetings are customarily called on either the second, fourth or (where relevant) fifth Wednesday of the month.*

### **7 Councillor Workshops, briefings and informal meetings**

- (1) Councillor Workshops
  - a. will be held as and when determined by the Council within its regular meeting cycle or as determined by the Mayor or General Manager having regard to the amount of information to be provided to Councillors and of any urgent nature.

- b. normally commence at 7:00pm and shall conclude at 9:00pm unless those present by consensus allow the workshop to continue until all information on the agenda has been presented.
- (2) Councillor briefings are held as requested generally to inform Councillors of matters currently before consideration of the Council.
- (3) Informal meetings are held as requested to brief Councillors on matters that are not currently before the Council.

**Note:** Council from time to time conducts workshops, briefings and informal meetings with Councillors on issues relevant to Council business. The sessions provide an informal environment to allow Councillors to receive information and ask questions about issues outside of the formal meeting process. At these meetings Council will not:

- a. formally consider any specific reports containing recommendations; or
- b. make a binding decision in relation to any matters discussed during the workshop, briefing or informal meetings.

Councillor Workshops, Briefings and informal meetings are not open to the public but may involve members of the community by invitation where relevant.

## 8 Notice of meetings

- (1) The General Manager of a Council must send to each Councillor, at least 3 days before each meeting of the Council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting. (S367 [1])
- (2) The notice of meeting will be provided electronically to Councillors, who will have been provided the facilities to access the notice, agenda and business papers (S367[3]).
- (3) Notice of less than 3 days' may be given of an extraordinary meeting called in an emergency, but in no case shall notice of less than one day be given (S367 [2]).
- (4) For the purpose of this Clause, 3 days' notice before a meeting of the Council includes a Saturday, Sunday and/or a Public Holiday.
- (5) Notice must also be given of Council (cl 232 Regs) in a local newspaper indicating the time & place of the meeting. Notice does not have to be by publication for Extraordinary Council however, a Notice must be placed on Councils public notice board, at least 1 day prior to the meeting being held.

**Note:** From 2011 it has been the practice of Council to publish the business paper on-line on the Thursday prior to the following Wednesday meeting.

The Council has delegated functions of the Council under S377 to the General Manager and in accordance with that authority has the power to set a meeting date for meetings of the Council.

## 9 Quorum (S368)

The quorum for a meeting of the Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office.

## 10 What happens when a quorum is not present (cl 233 Regs)

- (1) A meeting of the Council must be adjourned if a quorum is not present:
  - a. within half an hour after the time designated for the holding of the meeting; or
  - b. at any time during the meeting.
- (2) In either case, the meeting must be adjourned to a time, date and place fixed:
  - a. by the chairperson; or
  - b. in his or her absence by the majority of the Councillors present; or
  - c. failing that, by the General Manager.
- (3) The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a

quorum) at or arising during a meeting of the Council, together with the names of the Councillors present.

- (4) A meeting of the Council must be held or at least opened if a meeting notice has been given. The meeting cannot be abandoned or cancelled.

**Note:** *Meetings must commence on time or within half an hour after the time designated for the holding of the meeting.*

## **11 Presence at Council meetings (includes Leave of Absence)**

- (1) A Councillor cannot participate in a meeting of the Council unless personally present at the meeting. (cl 235 Regs)
- (2) The General Manager
- a. is entitled to attend, but not to vote at a meeting of the Council of which all the members are Councillors.
  - b. is entitled to attend a meeting of any other Committee of the Council and may, if a member of the Committee, exercise a vote.
  - c. may be excluded from a meeting of the Council or a Committee while the Council or Committee deals with a matter relating to the standard of performance of the General Manager or the terms of the employment of the General Manager.
- (3) A Councillor
- a. When submitting an application for leave of absence from Council Meetings should, if practicable, identify (by date) the meetings from which the Councillor intends to be absent. (cl 235A [1] Regs)
  - b. who intends to attend a Council Meeting despite having been granted leave of absence should, if practicable, give the General Manager at least 2 days' notice of his or her intention to attend. (cl 235A [2] of Regs)
- (4) For attendance purposes, a Councillor shall not be deemed to be present at any Council meeting, unless they are within the Council Chamber. For the purposes of this requirement, the Council Chambers foyer or Councillors' Suite is not regarded as being in the Council Chamber.
- (5) Councillors declaring an interest in a matter at a Council meeting and leaving the Chamber shall not remain in either the public gallery or any part of the foyer within view of the meeting.
- (6) A Councillor shall not be deemed to be present at any Committee meeting unless they are within the designated meeting room itself.

## **PART 3 - PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS**

### **12 Chairperson of Council meetings**

- (1) The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor shall preside at meetings of the Council.
- (2) If the Mayor and the Deputy Mayor are absent, a Councillor shall be elected to chair the meeting by the Councillors present and following such election shall preside at the meeting of the Council.

**Note:** (S369)



- (3) If no chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.
- (4) The election must be conducted:
  - a. by the General Manager or, in his or her absence, an employee of the Council designated by the General Manager to conduct the election; or
  - b. if neither of them is present at the meeting or there is no General Manager or designated employee by the person who called the meeting or a person acting on his or her behalf.
- (5) If, at an election of a chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- (6) For the purposes of subclause (3), the person conducting the election must:
  - a. arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
  - b. then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- (7) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

**Note:** (cl 236 Regs)

### **13 Chairperson to have precedence (cl 237 Regs)**

When the chairperson rises or speaks during a meeting of the Council:

- (a) any Councillor then speaking or seeking to speak must immediately resume his or her seat, if standing; and
- (b) every Councillor present must be silent to enable the chairperson to be heard without interruption.

### **14 Chairperson's duty with respect to motions (cl 238 Regs)**

- (1) It is the duty of the chairperson at a meeting of the Council to receive and put to the meeting any lawful motion that is brought before the meeting.
- (2) The chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- (3) Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected.

### **15 Confirmation of Minutes**

- (1) The Council must ensure that full and accurate minutes are kept of proceedings of the Council.
- (2) The General Manager must ensure that the following matters are recorded in the Council's minutes:
  - a. details of each motion moved at a Council meeting and of any amendments moved to it,
  - b. the names of the mover and seconder of the motion or amendment,
  - c. whether the motion or amendment is passed or lost.
  - d. the record of votes for and against matters relating to Planning (S375A).
  - e. the names of any speakers from the public speaking for or against a report.

**Note:** Section 375 (1) of the Act requires a Council to ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council [other provisions of this Regulation and of the Act require particular matters to be recorded in a Council's minutes].

- (3) The accuracy of the minutes of every preceding meeting, including extraordinary

meetings, not previously confirmed must be dealt with at every meeting of the Council, in order that such minutes may be confirmed.

- (4) A motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.
- (5) Minutes may be confirmed at an extraordinary meeting of the Council.
- (6) The minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent meeting.

## **16 Order of business**

- (1) At a meeting of the Council (other than an extraordinary meeting, a meeting resolved by Council to be for a specific purpose or a meeting called by the Mayor in accordance with Clause 5 (3) of this Code) the general order of business shall be:
  1. The National Anthem
  2. Opening Prayer
  3. Acknowledgement of traditional custodians
  4. Apologies
  5. Mayoral Minute
  6. Matters of Privilege
    - Condolences
    - Other
  7. Disclosures of Interest
  8. Minutes of Previous Meetings (Council and Committees)
    9. Council Reports
  10. Notices of Motion
  11. Questions With Notice
  12. Closed Council session (Committee of the Whole)
  13. Consideration of Closed Council session recommendations.
- (2) Matters of Privilege referred to in (1) 6 above are to be confined to condolences, congratulations, presentations and matters ruled by the chairperson to be of extreme urgency and that a time limit of five (5) minutes be imposed on issues raised within privilege.
- (3) The Mayor may bring forward an item of business from the business paper where it is established that a member of the public with an interest in that item is present in the public gallery.
- (4) The order of business fixed under subclause (1) may be altered if a motion to Suspend Standing Orders (order of business) to that effect is carried, following which, Standing Orders (order of business) shall be resumed.
- (5) Notwithstanding Clause 30, only the mover of a motion referred to in subclause (4) may speak to the motion before it is put.
- (6) Council Meeting Reports referred to in (9) above may relate to any matter needing the Council's consideration that have not had the opportunity to be considered through a Committee process. The General Manager or Acting General Manager has the sole discretion for referring reports through this process. In addition, reports requiring consideration in Closed Session (Committee of the Whole) will be referred to under this item, but the item itself will appear under Committee of the Whole within the EBP.
- (7) Reports relating to development matters, including development application, development control plans and local environment plans which may not be determined under delegated authority or require a resolution of Council to be enacted will be considered as the first priority under "Council Reports".

## 17 Business papers for Council meetings

- (1) The General Manager must ensure that the agenda for a meeting of the Council states:
  - a. all matters to be dealt with arising out of the proceedings of former meetings of the Council, and
  - b. if the mayor is the chairperson - any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - c. subject to subclause (2), any business of which due notice has been given.
- (2) The General Manager must not include in the agenda for a meeting of the Council any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business would be) unlawful. The General Manager must report (without giving details of the item of business) any such exclusion to the next meeting of the Council.
- (3) The General Manager must cause the agenda for a meeting of the Council or a committee of the Council to be prepared as soon as practicable before the meeting.
- (4) The General Manager must ensure that the details of any item of business to which section 9 (2A) of the Act applies are included in a business paper for the meeting concerned.
- (5) Nothing in this clause limits the powers of the chairperson under clause 20.

**Note:** (cl 240 Regs)

## 18 Giving notice of business (cl 241 Regs)

- (1) The Council must not transact business at a meeting of the Council:
  - a. unless a Councillor has given notice of the business in writing delivered to the General Manager in sufficient time for notice of the business to be given to the Council in accordance with Clause 8 of this Code and distributed with the appropriate business paper or if the matter is determined as urgent in accordance with subclause (3); and
  - b. unless notice of business has been sent to the Councillors at least 3 days before the meeting, or, in the event of an extraordinary meeting called in an emergency, at least one day.
- (2) Subclause (1) does not apply to:
  - a. business which is already before, or directly relates to a matter that is already before, the Council;
  - b. the election of a chairperson to preside at the meeting as provided by Clause 12(3);
  - c. a matter or topic put to the meeting by the Chairperson in accordance with Clause 20;
  - d. is a motion for the adoption of recommendations of committees of the Council;
  - e. reports from officers which in the opinion of the chairperson or the General Manager are urgent; and
  - f. reports from officers placed on the business paper pursuant to a decision of a committee that additional information be provided to the Council in relation to a matter before the committee.
- (3) Despite subclause (1), business may be transacted at a meeting of the Council when due notice of the business has not been given to Councillors, but only if:
  - a. a motion is passed to have the business transacted at the meeting; and
  - b. the business proposed to be brought forward is ruled by the chairperson to be of great urgency. Such a motion can be moved without notice.
- (4) Despite clause 30, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put.

## **19 Business paper for extraordinary meeting (cl 242 Regs)**

- (1) The General Manager must ensure that the business paper for an extraordinary meeting of the Council deals only with the matters stated in the notice of the meeting.
- (2) Despite subclause (1), business may be transacted at an extraordinary meeting of the council even though due notice of the business has not been given to the Councillors if:
  - a. a motion is passed to have the business transacted at the meeting; and
  - b. the business proposed to be brought forward is ruled by the chairperson to be of great urgency. Such a motion can be moved without notice.
  - c. Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.
- (3) Despite clause 30, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.

## **20 Official minutes (Mayoral Minute)**

- (1) If the Mayor (or the Deputy Mayor, if acting for the Mayor) is the chairperson at a meeting of a Council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge.
- (2) Such a minute, when put to the meeting, takes precedence over all business on the Council's business paper for the meeting. The chairperson (but only if the chairperson is the Mayor, or the Deputy Mayor, if acting for the Mayor) may move the adoption of the minute without the motion being seconded.
- (3) A recommendation made in a minute of the chairperson (being the Mayor, or Deputy Mayor, if acting for the Mayor) or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council.

*Note: (cl 243 Regs)*

- (4) The Mayor shall make every effort to make available a Mayoral Minute as early as possible prior to a meeting at which it is to be considered.

## **21 Report of Director-General to be tabled at Council meeting (cl 244 Regs)**

When a report of the Director-General has been presented to a meeting of a Council in accordance with section 433 of the Act, the Council must ensure that the report:

- a. is laid on the table at that meeting; and
- b. is subsequently available for the information of Councillors at all reasonable times.

## **22 Notice of motion**

- (1) In the absence of a Councillor who has placed a notice of motion (cl 245 Regs) on the business paper for a meeting of the Council:
  - a. any other Councillor may move the motion at the meeting; or
  - b. the chairperson may defer the motion until the next meeting of the Council at which the motion can be considered.
- (2) Notices of Motion are to be submitted electronically and to be received by the Governance Officer by noon, seven (7) days prior to the Council meeting.
- (3) The General Manager (or relevant council officer) may add comments to the Notice of Motion to provide additional information or to clarify factual matters. Updated

versions of items amended after initial publication of the business paper are to be provided to the public gallery.

**Note:** Under clause 240 (2) of the Local Government (General) Regulations, the General Manager still has the right to exclude a Notice of Motion, if in the opinion of the General Manager, the business is or the implementation of the business would be unlawful.

## **23 Motions to be seconded**

- (1) A motion or an amendment cannot be debated unless or until it has been seconded. However, the mover of a motion may be allowed by the chairperson to speak to the motion before calling for the motion to be seconded. This clause is subject to clauses 20 (2) and 30 (5).
- (2) The seconder of a motion or of an amendment may reserve the right to speak later in the debate.

## **24 How subsequent amendments may be moved**

- (1) If an amendment has been accepted or rejected, a further amendment can be moved to the motion in its original or amended form (as the case may be), and so on, but no more than one motion and one proposed amendment can be before the Council at any one time. (cl 247 Regs).
- (2) It is permissible to debate the motion and an amendment concurrently.
- (3) It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.

## **25 Motions of Dissent (cl 248 Regs)**

- (1) A Councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- (2) In the event of a motion of dissent being moved, the chairperson may remain in the chair during consideration of such motion by the Council and, if necessary, exercise his/her casting vote in accordance with Clause 32 (2) of this Code.
- (3) If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the business paper and proceed with it in due course.
- (4) Despite clause 30, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

## **26 Petitions may be presented to the Council**

- (1) A Councillor may present a petition to the Council.
- (2) The Chairperson must not permit discussion on the petition, unless it relates to an item on the business paper. Petitions shall be referred to the General Manager for referral to an appropriate officer for report, or reply after appropriate action.

## **27 Questions may be put to Councillors and Council employees**

- (1) A Councillor:
  - a. may, through the chairperson, put a question to another Councillor; and
  - b. may, through the chairperson and the General Manager, put a question to a Council employee.

- (2) However, a Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.
- (3) The Councillor must put every such question directly, succinctly and without argument.
- (4) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this clause.

**Note:** (cl 249 Regs)

- (5) Nothing in this clause affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting.

## **28 Questions With Notice (QWN)**

- (1) Questions With Notice are to be submitted electronically and to be received by the Governance Officer by 12:00 noon, seven (7) days prior to the Council meeting. Updated versions of items amended after initial publication of the business paper are to be provided to the public gallery at the meeting and are available electronically to Councillors and to the public on-line
- (2) The relevant council officer will endeavour to provide a written response within the business paper at the time of publication, if time permits, or up to the evening prior to the Council meeting. If an answer cannot be provided in this manner or at the Council meeting the QWN would be taken on notice for a report to a subsequent meeting.
- (3) .

**Note:** *These questions are not subject to debate or public address*

- (4) Councillors should forward by email issues of operational concern raised by constituents to the responsible Director, or the relevant authorised contact officer to enable matters to be dealt with at the earliest opportunity rather than submitting them as Questions With Notice.
- (5) Questions With Notice should be restricted to matters of Council Business (Policy or Operational). Other issues should be addressed through other forums. Matters of concern or disciplinary matters regarding Councillors or staff actions / behaviours will not be dealt with under Questions With Notice but rather through the General Manager in accordance with the Council's Code of Conduct.
- (6) Where Questions without Notice are raised at a Council Meeting (Cl 27) that are "taken on notice", the question and its response are to be referred to the next Council meeting in the form of a report.

**Note:** *Questions With Notice was implemented in accordance with Cl 241 of the Local Government (General) Regulations 2005, OLG Meeting Practice Note 16 (2009) and OLG Circular to Councils 10-10*

## **29 Mode of address**

Councillors shall at all times address other Councillors by their official designation, as Mayor or Councillor, as the case may be. Councillors may sit including any Councillor prevented from standing by physical infirmity when addressing the Chambers, however this does not prevent any Councillor standing to speak if he/she so wishes.

## **30 Limitation as to number of speeches (cl 250 Regs)**

- (1) A Councillor who, during a debate at a meeting of the Council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
- (2) A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

- (3) A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment and for longer than 5 minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- (4) Despite subclauses (1) and (2), if the mover of a motion or amendment has spoken in favour of it and no Councillor expresses an intention to speak against it or if at least 2 Councillors have spoken in favour of a motion or an amendment and at least 2 Councillors have spoken against the motion or amendment, any Councillor may move that the question be now put.
- (5) The chairperson must immediately put to the vote a motion under subclause (4) without the motion being seconded and without debate
- (6) If a motion that the question be now put is passed, the chairperson must, after the mover of the motion has exercised his or her right of reply under subclause (1), immediately put the question to the vote without further discussion.
- (7) If a motion that the question be now put is rejected, the chairperson must resume the debate on the original motion or amendment.

### 31 Motions put without debate

Provided there is no objection from any Councillor present, any motion or recommendation before the Council may be put to the vote without discussion or debate.

### 32 Voting at Council meetings (cl 251 Regs)

- (1) Each Councillor is entitled to one vote. (S370)
- (2) Voting at a Council meeting, including voting at an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the Council may resolve that the voting in an election by Councillors for mayor or deputy mayor is to be by secret ballot.
- (3) The Chairperson has, in the event of an equality of votes, a second or casting vote (S370) and that vote shall be used at the absolute discretion of the Chairperson.
- (4) A Councillor who is present at a meeting of the Council but who fails to vote on a motion or an amendment put to the meeting is taken to have voted against the motion (S251[1]).

**Note:** *A failure to vote counting against a motion includes where a Councillor abstains from voting, whether formally selecting "abstain" through Council's electronic system or by stating they abstain. (OLG Meeting Practice Note 16 [2009])*

- (5) If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.
- (6) The decision of the chairperson as to the result of a vote is final, unless:
  - a. in the case where a vote has been declared on the voices, a Councillor immediately requests a show of hands; or
  - b. the decision is immediately challenged and not fewer than 2 Councillors rise and demand a division.
- (7) When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes.

**Note:** *Any division will be recorded through the use of the electronic voting system installed in the Council Chambers. Should the electronic system be unavailable, the former custom of standing will be utilised.*

- (8) Where a tie in the voting occurs and the chairperson is entitled to a casting vote in

accordance with Clause 32 (3) of this Code but declines to exercise such casting vote, the vote is lost and a new proposal should then be moved.

- (9) That Council when determining all planning, development, or related applications, Council will give relevant planning reasons for its decisions, if they depart from the recommendations of the staff.
- (10) When Council is considering planning matters, that is all Development Application matters, and site specific Development Control Plans and Local Environmental Control Plans, the General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes (see also Clause 32[4] above).

*Note: This clause took effect from the first meeting in 2008. (S375A).*

### **33 Decisions of the Council**

A decision supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council. (S371)

### **34 Rescinding or altering resolutions (S372)**

- (1) A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with clause 18. A motion to rescind or alter a resolution of the Council shall not be considered at the same meeting at which the resolution was passed.
- (2) If it is proposed to move a further motion in the event that a rescission motion is carried, the required notice must also be given of the proposed further motion.
- (3) If a notice of motion to rescind or alter a resolution is given:
  - a. at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission or alteration has been dealt with; or
  - b. at any time after the meeting at which the resolution is carried, no further action to carry the resolution into effect may be taken after receipt of the notice of motion until the motion of rescission or alteration has been dealt with.
- (4) In the case of a motion of alteration, subclause (3) applies only to the extent that the resolution of Council would be affected by the motion of alteration, if it is carried.
- (5) If a motion has been negated by the Council, a motion having the same effect must not be considered unless notice of it has duly been given in accordance with clause 18.
- (6) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the Council, must be signed by at least 3 Councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
- (7) If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within 3 months. This subclause may not be evaded by substituting a motion differently worded, but in principle the same.
- (8) A motion to which this clause applies may be moved on the report of a committee of the Council and any such report must be recorded in the minutes.
- (9) The provisions of this clause concerning negated motions do not apply to motions of adjournment.
- (10) Notwithstanding the provisions of subclause (1), Council may, by resolution, provided that the majority of Councillors present agree, re-commit a matter for further consideration at the same meeting at which the matter has been resolved, to avoid the necessity to rescind the resolution. However re-committal will not be



allowed if the meeting lapses for want of a quorum or is adjourned to another day.

**Note:** *The purpose of sub-clause (10) is to permit the Council to re-visit a decision taken, where it is realised after the vote on the matter, which because there may have been confusion or misunderstandings during debate, the decision may be inconsistent with the wishes of a majority of Councillors.*

### **35 Rescission Motions – Council Meetings**

- (1) That the procedure in relation to the submission of rescission motions be that in the event of a Councillor/s advising verbally of the intention to lodge a rescission motion following a meeting of the Council, that verbal advice be notified ASAP to the General Manager but by no later than 12:00 noon on the day immediately following the Council Meeting with the Member/s submitting the formal rescission motion with confirmed support (in writing) by three (3) Councillors no later than 12:00 noon on the third work day following the Council meeting. Failure to meet this timetable may see the original resolution actioned.

**Note:** *Confirmed support in writing may take the form of an email, letter or copy of the rescission duly signed by the Councillors, and may consist of a combination of any or all of these in support of a rescission. Verbal expressions of support will not be considered.*

- (2) The General Manager will notify the relevant Directors, Manager Corporate Governance & Records and the author of the report subject to the Rescission Motion as soon as verbal advice has been received that a Rescission Motion is to be lodged. The appropriate actioning officer will be responsible for ensuring that no further action is taken in respect to the matter pending the item being reconsidered at a future meeting of the Council.

### **36 Rescission Motion Format**

THAT the following resolution of the Council / Meeting of the [date] in relation to [Item number and Title] be rescinded:

*RESOLVED THAT ...*

FURTHER THAT if the rescission motion is successful that it be superseded by the following.

THAT ...

[The Report Detail should provide the reasons for the rescission.]

[Three Councillors to sign a hardcopy of the motion or provide written agreement to the motion electronically.]

### **37 Motions of adjournment**

- (1) Debate shall not be permitted on any motion for adjournment of a meeting of the Council.
- (2) If a motion for adjournment is negatived, the business of the meeting shall proceed, and it shall not be in order for any Councillor to again move a motion for adjournment within half an hour of the previous motion for adjournment being negatived.
- (3) A motion for adjournment may specify the time, date and place of the adjourned meeting; however, if a motion for adjournment is carried but does not specify the time, date and place of the adjourned meeting, the chairperson shall make a determination with respect to whichever of these has not been specified, in accordance with the regulation (cl 233 Regs)

## PART 4 - KEEPING ORDER AT MEETINGS

### 38 Questions of order (cl 255 Regs)

- (1) The chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- (2) A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- (3) The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council.
- (4) The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

### 39 Acts of disorder

- (1) A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a committee of the Council:
  - a. contravenes the Act, any regulation in force under the Act or this Code; or
  - b. assaults or threatens to assault another Councillor or person present at the meeting; or
  - c. moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or committee, or addresses or attempts to address the Council or committee on such a motion, amendment or matter; or
  - d. insults or makes personal reflections on or imputes improper motives to any other Councillor; or
  - e. says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or committee into contempt;  
**Note:** (cl 256 Regs)
  - f. reads at length from any correspondence, report or other document, without the leave of the Council.
- (2) The chairperson may require a Councillor:
  - a. to apologise without reservation for an act of disorder referred to in subclause (1) (a) or (b); or
  - b. to withdraw a motion or an amendment referred to in subclause (1) (c) and, where appropriate, to apologise without reservation; or
  - c. to retract and apologise for an act of disorder referred to in subclause (1) (d) or (e).
  - d. to refrain from further reading and apologise for the act of disorder in subclause 1(f).
- (3) The Council or committee of the Council may, by resolution, expel from a meeting a Councillor who fails to comply with a requirement made under subclause (2). The expulsion of a Councillor under this subclause does not prevent any other action from being taken against the Councillor for the act of disorder concerned.
- (4) The provisions of the Code of Conduct adopted by Council on 6 March 2013 or subsequent amendments made thereto that reflect on the Council's Code of Meeting Practice be endorsed.
- (5) Any matter of concern about the actions / behaviour of a Councillor are to be addressed as outlined in the Code of Conduct, if warranted, and not be the subject of debate or discussion at a Council Meeting.

## **40 How disorder at a meeting may be dealt with (cl 257 Regs)**

- (1) If disorder occurs at a meeting of the Council or committee of the Council, the chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well a disorder arising from the conduct of Councillors.
- (2) The Council or committee may, by resolution, expel a member of the public from a Council or committee meeting on the ground that the member is engaging in or has, at the meeting, engaged in disorderly conduct.

## **41 Power to remove persons from meeting after expulsion resolution (cl 258 Regs)**

If a meeting of the Council or committee of the Council resolves to expel from the meeting a Councillor for failing to comply with a requirement made under clause 39 or a member of the public for disorderly conduct and the Councillor or member of the public fails to leave the meeting immediately after the resolution is passed, a police officer or any person authorised by the Council or committee for the purpose, may remove the person from the meeting and, if necessary, restrain the person from re-entering the place where the meeting is being held.

## **PART 5 - COUNCIL COMMITTEES**

### **42 Committee of the Whole (Closed Session)**

- (1) The Council may resolve itself into a Committee of the Whole to consider any matter before the Council.
- (2) Before resolving into Committee of the Whole the chairperson must ascertain whether or not any member of the public present wishes to address Council as to whether or not the meeting should be closed to the public to consider particular issues on the basis of such period being held immediately prior to the time when Council proposes to close the meeting with any address from a member of the public to be for a maximum period of two (2) minutes and, if appropriate, addresses are to be taken on a "for" and "against" basis. The period for representation ceases when the Chairperson calls for the public to vacate the Chamber. (cl 264 Regs).
- (3) All the provisions of this Code relating to meetings of the Council, so far as they are applicable, extend to and govern the proceedings of a Committee of the Whole, except the provisions:
  - a. limiting the number and duration of speeches; and (cl 259 [1] Regs)
  - b. requiring Councillors to stand when speaking.
- (4) If a Council resolves that a meeting, or a part of a meeting, is to be closed to the public, the chairperson must make the recommendations of the closed session public as soon as practicable after the meeting or part of the meeting has ended.
- (5) The General Manager is responsible for reporting to the Council proceedings in a closed session. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- (6) The Council must ensure that a report of the proceedings is recorded in the Council's minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed.

### **43 Council may appoint committees and determine frequency of meetings**

- (1) The Council may appoint or elect such committees as it considers necessary.
- (2) The Council may determine the dates and times of meetings of committees appointed or elected by Council and additional meetings of committees appointed or elected by Council may be convened by Council, the Mayor or in his/her absence the Deputy Mayor or the Chairperson of the committee concerned, subject to appropriate notice of the meeting of the committee being given in accordance with Clause 45 of this Code.

*Note: Advisory Committees meet at various times, the schedules of which are published online.*

- (3) The Members of a particular committee may agree to vary the time of commencement of that committee from time to time.
- (4) Such a committee is to consist of such number of Councillors of the Council as the Council decides.
- (5) The quorum for a meeting of such a committee shall be as determined by resolution of the Council from time to time or if the Council has not determined a quorum shall be a majority of the members of the committee and, in the event of a quorum not being present, all committees shall have the power to co-opt other Councillors so as to provide a quorum, and the co-opted Councillor(s) shall be regarded for the purpose of that particular meeting as having the same rights and privileges as if they were appointed or elected members of the committee and where no members of a committee are available, the Mayor, or in his/her absence the Deputy Mayor, shall have the authority to co-opt other Members of Council so as to provide a quorum and the before-mentioned rights and privileges shall apply to such co-opted Members.

### **44 Functions of committees (cl 261 Regs)**

The Council must specify the functions of each of its committees when the committee is appointed or elected, but may from time to time amend those functions.

### **45 Notice of committee meetings to be given (cl 262 Regs)**

- (1) The General Manager of the Council must send to each Councillor, at least 3 days before each meeting of the committee, a notice specifying:
  - a. the time and place at which and the date on which the meeting is to be held; and
  - b. the business proposed to be transacted at the meeting.
- (2) However, notice of less than 3 days may be given of a committee meeting called in an emergency by the Mayor or in his/her absence the Deputy Mayor or the Chairperson of the committee, but in no case shall less than one day be given.
- (3) The manner of giving notice of a committee meeting may be undertaken in the same manner as giving notice of a Council Meeting as referred to in Clause 8 of this Code.
- (4) The provisions of clause 17 (2), (3) and (4) apply to the business papers of committee meetings in the same manner as they apply to the business papers of meetings of the Council.

### **46 Non-members entitled to attend committee meetings (cl 263 Regs)**

Except as provided for in Clause 43(5) a Councillor who is not a member of a committee of the Council is entitled to attend and speak at, but is not entitled to vote at, a meeting of the committee.

## **47 Procedure in committees (cl 265 Regs)**

- (1) Each committee of the Council may regulate its own procedure.
- (2) Without limiting subclause (1), a committee of the Council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote.
- (3) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands).

## **48 Chairperson and deputy chairperson of committees**

- (1) The Chairperson of each Committee of the Council, must be:
  - a. the Mayor; or
  - b. if the Mayor does not wish to be the Chairperson of a committee, a member of the committee elected by the Council; or
  - c. if the Council does not elect such a member, a member of the committee elected by the committee
- (2) A Council may elect a member of a Committee of the Council as Deputy Chairperson of the Committee. If the Council does not elect a deputy Chairperson of such a Committee, the Committee may elect a Deputy Chairperson.
- (3) If neither the Chairperson nor the Deputy Chairperson of a Committee of a Council is able or willing to preside at a meeting of the Committee, the Committee must elect a member of the Committee to be acting Chairperson of the Committee.

*Note:* Cl 267 Regs

*Note:* The Mayor is, by virtue of holding that office, a member of each committee of the Council.

## **49 Absence from committee meetings (cl 268 Regs)**

- (1) A member ceases to be a member of a committee if the member (other than the Mayor):
  - a. has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or
  - b. has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- (2) Subclause (1) does not apply if all of the members of the Council are members of the committee.

*Note:* Leave of absence from Council Meetings is covered under clause 11 of this Code. (cl 235A Regs).

## **50 Reports of committees (cl 269 Regs)**

- (1) If in a report of a committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation.
- (2) The recommendations of a committee of the Council are, so far as adopted by the Council, resolutions of the Council.

## **51 Disorder in committee meetings (cl 270 Regs)**

The provisions of the Act, the Regulation and this Code relating to the maintenance of order in Council meetings apply to meetings of committees of the Council in the same way as they apply to meetings of the Council.

## **52 Committee may expel certain persons from its meetings (cl 271 Regs)**

- (1) If a meeting or part of a meeting of a committee of the Council is closed to the public in accordance with clause 55(2), the committee may, by resolution, expel from the place where the meeting is being held any person who is not a Councillor.

- (2) If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the Council for the purpose, may remove the person from, and, if necessary, restrain the person from re-entering that place.

## **PART 6 - PECUNIARY INTERESTS**

### **53 Pecuniary interest**

- (1) For the purposes of this Part, a pecuniary interest and the effects and requirements when a pecuniary interest arises is to be as defined in the relevant provisions of the Local Government Act, 1993.

*Note: Council's Conflict of Interest Policy should also be referred to for further information on pecuniary interests.*

- (2) A conflict of interests can be of two types:
- a. Pecuniary – An interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated. (S442 and S443).
  - b. Non-Pecuniary – A private or personal interest the Council official has that does not amount to a pecuniary interest as defined in the Act (for example; a friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).
- (3) Where a Councillor or a member of a Council Committee who has a pecuniary interest in any matter before the Council, and who is present at a meeting where the matter is being considered, must identify the nature of the interest to the meeting as soon as practical. Generally this would be when the Chairperson of the Meeting calls for "Disclosure of nature and interest in matters before the meeting".
- (4) When a Councillor or Council Official declares a Pecuniary Interest he / she must vacate the room and not take part in any discussion or consideration of the matter.
- (5) When a Councillor or Council Official declares a non-pecuniary interest he / she must determine the most appropriate course of action to deal with the conflict as specified in Council's Code of Conduct. If the Councillor does not leave the meeting, the Councillor must vote on the matter otherwise it will be taken as the Councillor having voted against the motion.
- (6) Clauses (3) and (4) do 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 part of the council's area, or
    - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and
  - b. the councillor made a special disclosure under Schedule 3A (Regs) in relation to the interest before the commencement of the meeting.

## **PART 7 - PRESS AND PUBLIC**

### **54 Public notice of meetings**

- (1) The Council must give notice to the press and public of the times, dates and places of its meetings and meetings of those of its committees of which all the members are Councillors.
- (2) The Council and each such committee must have the business paper available for the press and public prior to and at each meeting for inspection and taking away by

persons of the business paper for the meeting. This requirement does not apply to a business paper for a matter that, in the opinion of the General Manager, is likely to be considered when the meeting is closed to the press and public and in this case the agenda for the meeting is to indicate that the relevant item of business is of such a nature (S9[2]).

- (3) The business paper is to be available to the press and public as nearly as possible to the time they are available to Councillors and are to be available free of charge.

## **55 Attendance at meetings of the Council**

- (1) The press and public are entitled to attend a meeting of the Council and those of its committees of which all its members are Councillors, except as provided by this clause.
- (2) The Council or such a committee may close to the press and public only so much of its meeting as comprises the receipt or discussion of any of the following:
- a. personnel matters concerning particular individuals (other than Councillors),
  - b. the personal hardship of any resident or ratepayer,
  - c. information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,
  - d. commercial information of a confidential nature that would, if disclosed:
    - i. prejudice the commercial position of the person who supplied it, or
    - ii. confer a commercial advantage on a competitor of the Council, or
    - iii. reveal a trade secret,
  - e. information that would, if disclosed, prejudice the maintenance of law,
  - f. matters affecting the security of the Council, Councillors, Council staff or Council property,
  - g. advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
  - h. Information concerning the nature and location of a place or an item of Aboriginal significance on community land,
  - i. Alleged contraventions of any code of conduct requirements applicable under section 440.
- (3) The grounds on which a meeting is closed must be specified in the decision to close the meeting and recorded in the minutes of the meeting and specify the following:
- a. the relevant provisions of the Act;
  - b. the matter that is to be discussed during the closed part of the meeting;
  - c. the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.
- (4) A person (whether a Councillor or another person) is not entitled to be present at a meeting if expelled from the meeting by a resolution of the meeting.
- (5) Nothing in this clause prevents any limitation being placed on the number of members of the public admitted to a meeting of the Council or a committee of the Council, provided such limitation is for reason of safety or security.

## **56 Public Participation at Council / Committee Meetings**

- (1) A member of the public wishing to address the Council (or a Committee of the Council) is required to submit a request in writing not later than 48 hours prior to the meeting and, if approval is granted by the Mayor or Chairperson of the relevant Committee, the applicant (or one person representing a group or organisation); or if there are opposing views, up to two speakers representing each viewpoint be permitted to address that meeting of the Council (or Committee of the Council) for three minutes at the time specified by the Mayor or Chairperson; except that the

Mayor or Chairperson, at their discretion, may permit the immediate consideration by the Council or Committee in relation to an urgent matter.

**Note:** Subclause (2) and (3) below are explanatory notes and do not form part of this Code. The explanatory notes will assist a member of the public to understand the manner in which the Mayor or Chairperson of the relevant Committee is likely to exercise the discretion to approve public participation.

- (2) No more than four (4) speakers may be permitted to address a meeting of the Council (or Committee of the Council) on each occasion, except in relation to planning reports.
- (3) To ensure a broad range of representation, individual members of the public wishing to address the Council (or Committee of the Council) will be limited to three (3) addresses each calendar year, except in relation to planning reports.
- (4) Speakers shall be scheduled to speak prior to consideration of the matter on which the speaker wishes to address the Council.
- (5) Questions or addresses from the public gallery
  - a. shall not be allowed in respect to matters being considered by Council (or Committee of the Council) unless prior approval has been granted by the Mayor or Chairperson.
  - b. shall not be allowed in respect to matters not on the meeting agenda.
- (6) That should speakers address Council on a matter which is subsequently deferred for the purposes of a Councillor inspection or further consideration, that it be the policy that no further representations be permitted by members of the public on that matter.
- (7) Should a Councillor indicate that a motion to defer will be proposed, the Chair shall give those members of the public who have registered to speak the opportunity to reserve their right to speak until such time as the matter is referred back to Council.
- (8) That in the event that a development application (as a planning report) is considered at a Council meeting at which members of the public address the Council, and the Council resolves to request amendments to the proposal, then members of the public be permitted to speak at the meeting at which the matter is further considered if that consideration relates to a redesigned structure or substantially amended structure.
- (9) All speakers who address Council will be identified by name in the minutes for the Council Meeting or committee at which the person spoke, and whether the speaker was for or against the recommendation on the matter under consideration.

**Note:** Hurstville City Council actively encourages participation of residents in the decision making process and is happy to hear from people regarding matters raised in the business paper, subject to the provisions of clause 28 in respect of Questions With Notice.

## **57 Public access to correspondence and reports**

- (1) The Council and a committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- (2) This clause does not apply if the correspondence or reports:
  - a. relate to a matter that was received or discussed; or
  - b. were laid on the table at, or submitted to, the meeting, while the meeting was closed to the public.



## PART 8 - MISCELLANEOUS

### 58 Urgent Minor Matters

- 1) The General Manager be authorised to approach Councillors in cases of urgency where a decision is required on a matter prior to the next available Council Meeting on the basis that the approach is by email and to all Councillors.
- 2) The General Manager must receive a majority of support, by email, before enacting any action, with a report to go to the next available Council meeting outlining the action taken.
- 3) Should any Councillor not support the proposed action and they are of a strong view that the proposed action should not be taken, Councillors have the right to advise their intention to submit a rescission motion in accordance with the existing provisions described in Clause 34 of this Code of Meeting Practice. Should this occur, and a formal rescission motion is received, no action would be taken and the matter would be submitted to the next available Council meeting for consideration.

**Note:** It should be noted that the enacting of a 'rescission motion' under this process does not substitute, prohibit or take the place of the provisions of Cl 34 Rescinding and Altering Resolutions once the matter has been considered and determined by Council.

### 59 Information relating to proceedings at closed meetings not to be disclosed (S664)

- (1) If a meeting or part of a meeting of the Council or a committee of the Council is closed to the public in accordance with clause 55(2), a person must not, without the authority of the Council or the committee, disclose, otherwise than to the Council or to a Councillor, information with respect to the discussion at, or the business of, the meeting.
- (2) This clause does not apply:
  - a. to the report of a committee of the Council when presented to the Council;
  - b. to the disclosure of information referred to in subclause (1) by a Councillor or employee of the Council in the course of the Councillor's or employee's duties.

### 60 Inspection of the minutes of the Council or a committee

- (1) Copies of the minutes of the Council or committee of the Council are made available to the public on-line.
- (2) Should an inspection of hard copy minutes of the Council or committee of the Council be requested, the inspections is to be carried out under the supervision of the General Manager or Public Officer or an employee of the Council designated by the General Manager or Public Officer to supervise inspections of those minutes.
- (3) The General Manager must ensure that the minutes of the Council and any minutes of a committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

### 61 Recording of meeting of the Council or a committee prohibited

- (1) A person may use a tape recorder to record the proceedings of a meeting of a council or committee of the council only with the authority of the council or committee.

- (2) A person may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a Council or a Committee of a Council for using or having used a recording device in contravention of this clause.
- (3) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council, or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.
- (4) In this clause, **tape recorder** includes a video camera, mobile phone and any electronic device capable of recording speech, .

*Note: CI 273 Regs*

## **62 Recording of meeting by the Council or a committee**

- (1) Audio recordings are not required of Council or any Committee Meetings. However, if recordings of any meetings are made then:
  - a. audio recordings of meetings will only be used for verifying the accuracy of minutes;
  - b. audio recordings of meetings will not be made available to the public or disclosed to any third party except as allowed or exempted under sections 18, 19 and/or 23 of the Privacy and Personal Information Act 1998 or by any other law, e.g. Government Information (Public Access) Act 2009.
  - c. audio recordings of meetings will be destroyed as soon as their original purpose is served or immediately after three months since their creation (whichever is the later), except where retention for a longer period is otherwise required or recommended under the State Records Act 1998 or for any other lawful purpose.
  - d. appropriate signage will be displayed in the public gallery or at the public entrance to council meetings, as well as verbal statements at the commencement of each meeting, to notify the public of the matters required under s10(a)-(e) of the Privacy and Personal Information Act 1998.
- (2) In this clause, **audio recordings** include a tape recorder, video camera, mobile phone or any electronic device capable of recording speech.

## **63 Certain circumstances do not invalidate Council decisions (S374)**

Proceedings at a meeting of the Council or a Council committee are not invalidated because of:

- a. a vacancy in a civic office;
- b. a failure to give notice of the meeting to any Councillor or a committee member;
- c. any defect in the election or appointment of a Councillor or a committee member;
- d. a failure of a Councillor or a committee member to disclose a pecuniary interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a Council or a committee meeting in accordance with section 451;
- e. a failure to comply with the Code of Meeting Practice.

## **64 Referral of Planning and Development Matters to Council**

If any Councillor notifies the General Manager in writing at any time prior to determination of a matter under consideration and they seek to have the matter considered by full Council then:

- a) The matter shall be referred to Council for its consideration and determination;
- b) The Councillor referring the matter to Council shall state, in writing, the specific reasons for referral, with such reasons to be communicated to all Councillors prior to the meeting. The source Councillor and reasons for referral are to be included in any report to Council.

Where the notice of referral provides that the reason for referral is to allow a site inspection by Councillors, the General Manager be authorised to arrange the site inspection in consultation with the Mayor, prior to the matter being referred for consideration by Council. The arrangements for a site inspection are also to include notification to all Councillors.

## **65 Amendment of Code**

- (1) Changes to the Act or Regulation will automatically impact Council's Code of Meeting Practice. If inconsistent, the provisions of the Meeting Code must be changed to match the Act and the Regulation.
- (2) The Code is automatically amended as a result of changes to the Act or Regulation. These changes do not require public notification under S361 to S363 of the Act, given that these amendments would follow best practice requirements.
- (3) Any amendment to the additional provisions provided by the Council in its Meeting Code may require public notification in accordance with the relevant sections of the Act.
- (4) The Code of Meeting Practice shall be reviewed within twelve (12) months of a general election or on an "as needs" basis.



**Premier  
& Cabinet**

# **NSW GOVERNMENT BOARDS AND COMMITTEES GUIDELINES**

**SEPTEMBER 2015**

## Version and amendment table

| <b>Date</b>    | <b>Version</b> | <b>Amendments</b>  |
|----------------|----------------|--|
| July 2013      | 1.0            | Original release   |
| September 2015 | 2.0            | Amendments to incorporate changes to the appointment process |

## Contents

|          |   |           |
|----------|---|-----------|
| <b>1</b> | <b>INTRODUCTION</b>   | <b>5</b>  |
| 1.1      | SCOPE   | 5         |
| <b>2</b> | <b>ESTABLISHING A NEW BOARD OR COMMITTEE</b>                | <b>6</b>  |
| <b>3</b> | <b>KEY GOVERNANCE AND POLICY DOCUMENTS</b>                  | <b>7</b>  |
| 3.1.     | CHARTER   | 7         |
| 3.2.     | REPORTS   | 7         |
| 3.3.     | REVIEWS   | 8         |
| 3.4.     | BUSINESS PLAN   | 8         |
| 3.5.     | INTERNAL AUDIT AND RISK MANAGEMENT ARRANGEMENTS             | 9         |
| 3.6.     | INDEMNIFYING AND INSURING MEMBERS                           | 9         |
| 3.7.     | <i>GOVERNMENT INFORMATION (PUBLIC ACCESS) ACT 2009</i>      | 9         |
| <b>4</b> | <b>ROLES AND RESPONSIBILITIES OF KEY PARTICIPANTS</b>       | <b>10</b> |
| 4.1.     | MINISTERS   | 10        |
| 4.2.     | SECRETARIES   | 10        |
| 4.3.     | CHAIR   | 11        |
| 4.4.     | MEMBERS   | 11        |
| 4.5.     | CHIEF EXECUTIVE   | 12        |
| 4.6.     | SECRETARIAT SUPPORT   | 12        |
| <b>5</b> | <b>PROCESS FOR APPOINTMENT OF MEMBERS</b>                   | <b>12</b> |
| 5.1      | CABINET CONSIDERATION OF APPOINTMENTS                       | 13        |
| 5.2      | DEADLINES FOR CABINET SUBMISSIONS                           | 15        |
| 5.3      | AFTER CABINET APPROVAL                                      | 15        |
| 5.4      | EXECUTIVE COUNCIL AND APPOINTMENTS                          | 15        |
| 5.5      | DIRECT APPOINTMENTS BY MINISTERS                            | 16        |
| 5.6      | APPOINTMENTS BY DEPARTMENTS AND AGENCIES                    | 16        |
| 5.7      | APPOINTMENT LETTER  | 16        |
| 5.8      | EXPIRY, REAPPOINTMENT AND TERMINATION OF APPOINTMENTS       | 16        |
| 5.9      | CERTAIN LOBBYISTS INELIGIBLE FOR APPOINTMENT                | 17        |
| 5.10     | <i>PRIVACY AND PERSONAL INFORMATION PROTECTION ACT 1998</i> | 18        |
| 5.11     | WORKING WITH CHILDREN CHECK                                 | 18        |
| 5.12     | MEMBERS CONTESTING ELECTIONS                                | 18        |
| <b>6</b> | <b>MEMBER INDUCTION AND DEVELOPMENT</b>                     | <b>19</b> |
| 6.1      | INDUCTION   | 19        |
| <b>7</b> | <b>CONDUCT OF MEMBERS</b>                                   | <b>19</b> |
| 7.1      | CODE OF CONDUCT   | 20        |
| 7.2      | PUBLIC EXPENDITURE  | 20        |
| 7.3      | ETHICAL DECISION MAKING                                     | 21        |
| 7.4      | CONFLICTS OF INTEREST                                       | 21        |
| 7.5      | MECHANISMS FOR AVOIDING OR MANAGING A CONFLICT OF INTEREST  | 21        |
| 7.6      | USE OF PUBLIC RESOURCES                                     | 22        |
| 7.7      | USE OF OFFICIAL INFORMATION                                 | 22        |
| 7.8      | GIFTS AND BENEFITS  | 22        |
| 7.9      | REPORTING SUSPECTED CORRUPT CONDUCT                         | 22        |

|           |   |           |
|-----------|---|-----------|
| <b>8</b>  | <b>REMUNERATION AND OTHER FINANCIAL CONSIDERATIONS.....</b>                             | <b>23</b> |
| 8.1       | CLASSIFICATION AND REMUNERATION FRAMEWORK FOR NSW GOVERNMENT BOARDS AND COMMITTEES..... | 23        |
| 8.2       | PAYMENTS TO INDIVIDUALS.....  | 24        |
| 8.3       | PAYMENTS TO PUBLIC SECTOR EMPLOYEES .....   | 24        |
| 8.4       | TAXATION OBLIGATIONS .....  | 24        |
| 8.5       | OUT OF POCKET EXPENSES .....  | 25        |
| <b>9</b>  | <b>CONTACTS FOR FURTHER INFORMATION AND ADVICE.....</b>                                 | <b>27</b> |
| 9.1       | DEPARTMENT OF PREMIER AND CABINET .....   | 27        |
| 9.2       | PUBLIC SERVICE COMMISSION .....   | 27        |
| <b>10</b> | <b>APPENDICES .....</b>   | <b>28</b> |
|           | APPENDIX 1: APPOINTMENT FORM.....   | 29        |
|           | APPENDIX 2: STATISTICAL NOMINATION FORM .....   | 30        |
|           | APPENDIX 3: APPOINTMENT INFORMATION PROCESS FORM .....                                  | 31        |
|           | APPENDIX 4: EXECUTIVE COUNCIL MINUTE.....   | 32        |
|           | APPENDIX 5: MEMBER’S PECUNIARY INTEREST AND DECLARATION FORM .....                      | 33        |

## 1 Introduction

Boards and committees form an important part of the public sector, acting under the direction of government, to provide advice on certain areas of interest, support consultation with the community or oversee service delivery.

The *NSW Government Boards and Committees Guidelines* (the Guidelines) have been developed based on best practice principles to:

- Assist department and agency staff in the establishment and operation of NSW Government boards, committees and similar entities
- Provide guidance about the appropriate government oversight and clear accountabilities between boards and committees and the NSW Government entity to which they are aligned
- Clarify the roles and responsibilities of members and other key participants involved in board and committee activities
- Improve the transparency, integrity and accountability of NSW Government boards and committees.

The Guidelines support the NSW Government's commitment to promote accountability and integrity in the public sector.

### 1.1 Scope

The Guidelines apply to NSW Government boards and committees with at least one member who is external to Government, including boards, committees, commissions and trusts, whether established under statute or administratively with governing and/or advisory functions.

The Guidelines are designed to be flexible to accommodate the diverse needs of individual boards and committees. They must be read in light of any relevant legislative provisions relating to a specific board or committee. Some types of boards and committees may also have other obligations to comply with.<sup>1</sup>

Boards and committees that require Ministerial or Cabinet approval of member appointments should also consult the Public Service Commission's *Classification and Remuneration Framework for NSW Government Boards and Committees*.<sup>2</sup>

The Public Service Commission has also developed principles-based guidance on member appointments as outlined in *Appointment Standards: Boards and Committees in the NSW Public Sector*.<sup>3</sup>

---

<sup>1</sup> For example, entities which are defined as a "government business" (including certain boards and committees) should comply with relevant NSW Treasury guidelines and directives including the NSW Treasury Policy Paper 09-2 (TPP09-2) *Commercial Policy Framework: Guidelines for Boards of Government Businesses* available at: [www.treasury.nsw.gov.au](http://www.treasury.nsw.gov.au)

<sup>2</sup> Public Service Commission, *Classification and Remuneration Framework for NSW Government Boards and Committees* available at: [www.psc.nsw.gov.au](http://www.psc.nsw.gov.au)

<sup>3</sup> Public Service Commission, *Appointment Standards: Boards and Committees in the NSW Public Sector* available at: [www.psc.nsw.gov.au](http://www.psc.nsw.gov.au)



Members of boards and committees are also subject to other whole of government policies and guidelines that apply to the public sector generally, such as guidance regarding conflicts of interest and working with children checks.

## 2 Establishing a new board or committee

The inclusion of a board or committee within an entity's governance structure can be of benefit when entities have considerable powers, significant financial or operational risks, or require independence from other entities or office holders.

Factors to be considered when establishing a board or committee include:

- Whether a board or committee is required
- What type of board or committee is most appropriate – a governing board, advisory board or advisory committee
- Objectives, functions, powers and authority of the board or committee
- Process for developing and amending the charter document or terms of reference
- Number of members required and quorum
- Whether decisions are made by consensus, majority or special majority
- Roles and responsibilities of the members including the Chair
- Skills and expertise required of members
- Nomination and selection process for members and who appoints members
- Length of terms of appointment for members
- Whether members will be remunerated and if so, the remuneration arrangements which will apply<sup>4</sup> and source of funds
- Whether the operation of the board or committee is time-limited
- Process for the termination of appointments (including prior to expiry)
- Frequency of board or committee meetings
- Reporting arrangements including who the board or committee will report to, the type of reporting required and the content and frequency of reports
- Review mechanisms for the board or committee and its members
- Secretariat support required and who will provide and fund it
- Arrangements for dissolving the board or committee

---

<sup>4</sup> Please refer to the Public Service Commission's *Classification and Remuneration Framework for NSW Government Boards and Committees* available at: [www.psc.nsw.gov.au](http://www.psc.nsw.gov.au)

### 3 Key governance and policy documents

Boards and committees require a number of documents to support their effective governance and operation including a Charter, Code of Conduct (see section 7.1), Reports and Business Plan.

#### 3.1. Charter

Each NSW Government board and committee should have and maintain a document outlining its objectives, any powers or authorities it has, the roles and responsibilities of key participants and other relevant factors. The process for amending the document, including who will be responsible for its approval, should also be outlined. These factors may be outlined in a Charter or the establishing legislation for the board or committee as appropriate.

Boards and committees subject to NSW Treasury's Commercial Policy Framework have additional requirements for developing and applying a Charter.<sup>5</sup>

Copies of the Charter must be kept by the board or committee and should be published in accordance with the NSW Government's Open Government policy.<sup>6</sup>

#### 3.2. Reports

Boards and committees may have a range of reporting requirements to comply with. These requirements should be outlined in the establishing legislation and/or Charter document as appropriate. Periodic reports should identify:

- How the board or committee is delivering on its objectives including a summary of key activities undertaken during the period
- Outcomes achieved and key results for the period
- Meetings held during the period and attendance
- Current membership and any changes that have occurred during the period
- Risk management strategies
- Results of any reviews undertaken
- Ratification of the Charter document and any subsequent amendments.

Some boards and committees may have specific financial reporting requirements under legislation such as the *Annual Reports (Departments) Act 1985* or the *Annual Reports (Statutory Bodies) Act 1984*. Some boards and committees may also be subject to the Treasury Commercial Policy Framework or the Treasury Financial Management Framework.

---

<sup>5</sup> Please refer to NSW Treasury TPP09-2 *Commercial Policy Framework: Guidelines for Boards of Government Businesses* available at: [www.treasury.nsw.gov.au](http://www.treasury.nsw.gov.au)

<sup>6</sup> Premier's Memorandum *M2012-10 Open Government* dated 22 August 2012 available at: [www.dpc.nsw.gov.au](http://www.dpc.nsw.gov.au)

### 3.3. Reviews

Monitoring the operation of a board or committee ensures that informed decisions can be made about its ongoing relevance and role in supporting the Government to achieve its objectives.

Appropriate review processes, mechanisms and timeframes should be considered at the time of establishing a new board or committee and included in the establishing legislation and/or Charter. Formal reviews should be conducted at arm's length. The outcomes of any reviews should be included in the board or committee reports.

Formal reviews are generally undertaken every five years or as specified in the board or committee's establishing legislation or charter. In addition, a board or committee may wish to undertake more informal reviews on an annual basis.

A formal review of a board or committee and its members may consider whether:

- The board or committee is fulfilling its functions and objectives, its successes and the outcomes of its work in respect of its business plan
- Delivery through the board or committee is the most cost effective approach
- There is an ongoing need for the board or committee, or if its functions could be delivered through another existing board or committee, or other entity
- The board or committee has an appropriate number of members for the functions being performed
- Members have the appropriate mix of skills, experience, and diversity
- Individual members are fulfilling their responsibilities.

Factors that may be considered as part of a formal review or an internal member review include:

- Participation in and contribution to the objectives and workload
- Meeting attendance and engagement with other members
- Clear understanding of the roles and responsibilities of the board or committee, its members and other key participants involved with the board or committee (see section 4), its operating environment and the relationship with Ministers, statutory officers and other key stakeholders
- Any actual or potential conflicts of interest.

### 3.4. Business Plan

In addition to a Charter, it may be appropriate to have a Business Plan or Statement of Corporate or Business Intent. This is particularly relevant for commercial entities that are governed by a board. The purpose of a Business Plan or Statement of Corporate or Business Intent is to identify the strategies that will be used to achieve the objectives of the entity and the board or committee. This is usually the basis against which performance of both the entity and the board or committee is monitored.

### 3.5. Internal audit and risk management arrangements

Where relevant, boards and committees should comply with Treasury's requirements for internal audit and risk management, set out in Treasury Policy Paper 15-03 *Internal Audit and Risk Management Policy for the NSW Public Sector*.<sup>7</sup> Some boards and committees may also be required to apply the audit and risk management requirements for Government Businesses outlined in Treasury Policy Paper 09-2 *Commercial Policy Framework: Guidelines for Boards of Government Businesses*.<sup>8</sup>

### 3.6. Indemnifying and insuring members

Appropriate insurance and, where appropriate, indemnity arrangements should be in place for board or committee members. Requests for indemnity will be considered on a case by case basis. Only in exceptional circumstances would an indemnity be granted in advance of the commencement of legal process.

Some board and committee members may already have insurance cover under current whole of government arrangements, such as self-insurance arrangements administered by the Treasury Managed Fund. For further information consult the *Treasury Managed Fund – Statement of Cover including the Scheme Structure*.<sup>9</sup>

Additional whole of government arrangements apply, which may be varied from time to time via Ministerial Memoranda and Department of Premier and Cabinet Circulars.

Premier's Memorandum M1999-11 sets out the guidelines for the Provision of ex Gratia Legal Assistance for Ministers, Public Officials and Crown Employees.<sup>10</sup> It emphasises that the assistance which may be provided is ex gratia, or discretionary, in nature and will not be provided as of right.

Members should be advised to seek independent legal advice on these matters.

### 3.7. Government Information (Public Access) Act 2009

The *Government Information (Public Access) Act 2009* (GIPA Act) contains a right to information system for NSW Government to make government information more readily available and improve openness and accountability.

The GIPA Act applies to all NSW government agencies, including boards and committees. Board and committee members should be appropriately briefed on their obligations under the GIPA Act.

---

<sup>7</sup> NSW Treasury, *Policy Paper 15-03 (TPP15-03) Internal Audit and Risk Management Policy for the NSW Public Sector* available at: [www.treasury.nsw.gov.au](http://www.treasury.nsw.gov.au)

<sup>8</sup> NSW Treasury, *Policy Paper 09-2 (TPP09-2) Commercial Policy Framework: Guidelines for Boards of Government Businesses* available at: [www.treasury.nsw.gov.au](http://www.treasury.nsw.gov.au)

<sup>9</sup> *NSW Treasury Managed Fund – Statement of Cover including the Scheme Structure* available at: **Error! Hyperlink reference not valid.**

<sup>10</sup> Premier's Memorandum M1999-11: *Provision of ex Gratia Legal Assistance for Ministers, Public Officials and Crown Employees* available at: [www.dpc.nsw.gov.au](http://www.dpc.nsw.gov.au)

Boards and committees are encouraged to proactively release decisions of their meetings in accordance with the NSW Government's Open Government policy<sup>11</sup> unless there is an overriding public interest against disclosure.

## 4 Roles and responsibilities of key participants

A variety of participants contribute to the success of each board and committee and a diverse mix of skills, experience and qualities are required to support effective performance.

A summary of the roles and responsibilities of key participants involved with boards and committees is discussed below.<sup>12</sup> These should be set out in the Charter document for each board and committee.

### 4.1. Ministers

The roles and responsibilities of Ministers will vary depending on the board or committee and may include:

- Establishing a board or committee and consulting with the Public Service Commissioner about its classification and remuneration as part of the establishment process
- Making recommendations to Cabinet about member appointments and terminations
- Directing a board or committee to provide advice on a particular issue
- Making decisions based on advice provided by a board or committee
- Receiving and reviewing reports such as annual reports and reviews.

A Minister may have a more arm's length relationship with a governing board to provide it with an appropriate level of independence. A Minister may have a similar relationship with an advisory board where the board is established to provide independent advice to the Minister. The nature of such relationships will be defined in the board's establishing legislation.

A Minister may have a higher degree of control over advisory bodies (for example a Ministerial Advisory Committee or Taskforce) which have been established administratively to support a Minister to carry out his or her functions.

### 4.2. Secretaries

The roles and responsibilities of a Secretary will vary depending on the board or committee. Secretaries are likely to have a more limited role in relation to governing and advisory boards but may play a role supporting the Minister.

---

<sup>11</sup>Premier's Memorandum *M2012-10 Open Government* dated 22 August 2012 available at: [www.dpc.nsw.gov.au](http://www.dpc.nsw.gov.au)

<sup>12</sup>For further information refer to the Audit Office of NSW Better Practice Guide *On board: Guide to better practice for public sector governing and advisory boards* available at: [www.audit.nsw.gov.au](http://www.audit.nsw.gov.au)

In relation to advisory committees that provide advice to a department or agency, Secretaries may have a role in:

- Establishing a board or committee and approving member appointments and terminations
- Requesting a board or committee to provide advice on a particular issue
- Receiving reports from the board or committee such as annual reports, performance reports, review reports etc.

Secretaries may also be involved in undertaking or supporting periodic reviews of boards and committees and supporting the winding up of boards and committees.

#### **4.3. Chair**

The Chair is responsible for leading the activities of the board or committee. A Chair's responsibilities may include:

- Ensuring that the board or committee performs its functions, acting within any relevant statutory powers, legal obligations and complying with policies relevant to the entity (including whole of government policies)
- Facilitating the conduct of meetings to allow frank and open discussion
- Ensuring individual members make an effective contribution
- Developing the capability of the board or committee and its members
- Facilitating the flow of information to members and stakeholders
- Liaising with the relevant Ministers, Secretaries and Chief Executives
- Reviewing the performance and contribution of members
- Ensuring that appropriate secretariat support is provided
- In some circumstances, providing input into the nomination, selection and recruitment process for new members.

#### **4.4. Members**

The roles and responsibilities of board and committee members include:

- Supporting the board or committee to perform its functions
- Attending meetings and participating in decision making processes
- Undertaking consultation or research to support and promote discussion of the agenda items.

Members of governing boards should endeavour to reach consensus decisions. Members may express dissenting views and have these minuted, but in the best interests of the board they should defer to the final decision made.

Members of advisory committees who are appointed to represent the views of an organisation may or may not agree with the decisions of the board or committee and may seek to have their views minuted. In these situations, it may also be appropriate for members to continue to hold these views publicly.

#### **4.5. Chief Executive**

A Chief Executive, or similar position responsible for the day-to-day management of an entity, may assist the Chair in his or her role by:

- Contributing to the preparation of meeting papers for the board or committee and providing information to support discussions and decisions (where relevant and appropriate)
- Providing information on the entity's corporate, strategic and business plans to members
- Reporting on the entity's compliance with statutory requirements.

For entities with governing boards, the Chief Executive may also hold a position on the board itself.

#### **4.6. Secretariat support**

Quality secretariat support is required to support the effective operation of a board or committee. Key secretariat responsibilities may include:

- Working with the Chair to develop agendas, manage meeting papers and prepare a range of documents to support the operation of the board or committee
- Circulating papers in advance of meetings
- Taking minutes of the meeting including decisions, discussion and any dissenting views where appropriate
- Organising meeting facilities and other meeting logistics
- Liaising with members
- Liaising with other government agencies including central agencies to provide information to enable oversight of boards or committees across the sector.

### **5 Process for appointment of members**

A strong appointment process supports the effectiveness and independence of NSW Government boards and committees.

Ministers and government agencies are required to:

- apply the Public Service Commissioner's Appointment Standards and document the appointment process that has been followed for each appointment,
- ensure appropriate probity checks are conducted on the recommended candidate prior to approval,
- seek Cabinet approval of appointments listed in 5.1 below, and
- advise the Department of Premier and Cabinet of all appointments directly approved by a Minister.

These requirements apply to all Ministerial appointments and reappointments to NSW Government boards and committees, including boards of Government Business Enterprises and State Owned Corporations, and to paid and unpaid, and full and part-time positions on these bodies.

Where a board or committee is established under legislation (including under the *Corporations Act 2001*) any appointment processes specified in the legislation should also be followed.

For a new board or committee, where appointments require Ministerial or Cabinet approval, the appointment process should not start until the Public Service Commissioner provides a classification and remuneration recommendation under the Classification and Remuneration Framework.

Cabinet has agreed that all Ministerial appointments to NSW Government boards and committees are required to follow the Public Service Commissioner's principles-based guidance *Appointment Standards – Boards and Committees in the NSW Public Sector*<sup>13</sup> (Appointment Standards).

The Appointment Standards address a range of issues for consideration including:

- Skills, experience and knowledge required of members
- The process for filling a member vacancy
- Identification of potential candidates
- Criteria for assessing potential candidates
- Assessment panels
- Membership tenure
- General advice for candidates for appointment.

## 5.1 Cabinet consideration of appointments

From 1 October 2015, Cabinet will approve Ministerial appointments, and reappointments to:

- NSW Government boards and committees classified as Group A, Group B, and at levels 3 and above in Groups C, D, and E in the Public Service Commission's *Classification and Remuneration Framework for NSW Government Boards and Committees*<sup>14</sup> (Classification and Remuneration Framework),
- Category 1 Reserve Trusts,
- An appointment that is required by law to be made by the Governor,
- Any NSW Government board or committee position not in the above categories that is remunerated at greater than \$10,000 per annum,

---

<sup>13</sup> Public Service Commission, *Appointment Standards: Boards and Committees in the NSW Public Sector* available at: [www.psc.nsw.gov.au](http://www.psc.nsw.gov.au)

<sup>14</sup> Public Service Commission, *Classification and Remuneration Framework for NSW Government Boards and Committees* available at: [www.psc.nsw.gov.au](http://www.psc.nsw.gov.au)



- Acting positions in the above categories of 12 months or longer,
- A new board or committee where the Public Service Commissioner's classification and remuneration recommendation has been received and inaugural appointments are being made, and
- Any other appointment to a NSW Government board or committee which the Premier or Minister considers warrants Cabinet consideration, with the Premier's approval.

Ministers may directly approve all other NSW Government board and committee appointments.

The following information should be prepared for all appointments. Where Cabinet approval is required an additional Cabinet Submission is not necessary to support Cabinet's consideration of board and committee appointments.

#### **5.1.1 Appointment Form**

Information on recommended candidates is captured on the [Appointment Form](#) (Appendix 1).

The Appointment Form includes the following:

- details about the board or committee, including classification under the Classification and Remuneration Framework
- details about the appointment, including position and period of appointment including dates
- details about the candidate, including relevant qualifications and expertise, criteria for and conditions of appointment or reappointment, whether they are a public servant or on the Lobbyist Register, and who is nominating the recommended candidate
- information on the current composition of the board or committee.

#### **5.1.2 Statistical Nomination Form**

To monitor the diversity of board and committee members, the [Statistical Nomination Form](#) (Appendix 2) captures information about:

- The candidate's gender
- Whether the candidate is from a culturally or linguistically diverse background
- Whether the candidate is Aboriginal or Torres Strait Islander
- Whether the candidate has a disability
- Whether the candidate is a young person (under 25 years of age).

#### **5.1.3 Appointment Process Information Form**

To support a robust and transparent process, information is required to be provided on the appointment process that has been followed for each appointment. This is

collected in the [Appointment Information Process Form](#) (Appendix 3) and includes the following:

- Whether a selection panel was convened
- How/if the vacancy was advertised
- How/if diversity of board composition has been considered
- Whether reference and/or relevant probity checks have been carried out.

## 5.2 Deadlines for Cabinet submissions

The deadline for receipt of appointments for submission is **nine working days** prior to the Cabinet meeting where the appointment will be considered.

Where appointments are to commence during December and January papers must be submitted earlier than normal, as there is usually a period of several weeks from mid-December when Cabinet may not meet.

## 5.3 After Cabinet approval

Once Cabinet has made a decision on the proposed appointment, the Ministerial and Correspondence Services Branch in the Department of Premier and Cabinet will provide written advice of the decision to the Minister. Where an appointment requires Executive Council approval and an Executive Council Minute has been provided with the appointment form, Cabinet Secretariat will take the necessary steps to list it on the Executive Council agenda.

If an appointment is deferred by Cabinet it is the responsibility of the Minister to correct any issues and resubmit the appointment. Deferred appointments are not automatically relisted. If an appointment is not approved or it is deferred it cannot proceed to an Executive Council meeting.

## 5.4 Executive Council and appointments

An [Executive Council Minute](#) (Appendix 4) should be completed for appointments that require the Governor's approval, including:

- An explanatory note
- Appointment form identifying the board or committee, name of appointee, position title, remuneration, period of appointment and commencement date
- A brief resume for each appointee.

As a general principle, it is unacceptable for appointments which have a retrospective effect to be submitted to the Executive Council. It is recognised that on occasion exceptional circumstances will arise. In these instances, Ministers are to include in the explanatory note reasons for the retrospective appointment and ensure measures have been put in place to prevent a recurrence.

Where a retrospective appointment is being put forward, two separate Executive Council Minutes need to be submitted:

- Minute dealing with the retrospective period of the appointment
- Minute covering the period from the Executive Council meeting at which the appointment is approved to the end of the appointment term.

## **5.5 Direct appointments by Ministers**

Unless indicated in 5.1, Ministers can directly approve the appointment of a member to a NSW Government board or committee for which they have responsibility.

Ministers are required to ensure that the appointment process follows the Public Service Commission's *Appointment Standards*. Following approval of an appointment, the Minister is responsible for ensuring that the Appointment Form (described in 5.1.1) and the Appointment Process Information Form (described in 5.1.3) are provided to the Department of Premier and Cabinet, prior to the commencement of the appointment term.

This information should be emailed to: [boards@dpc.gov.nsw.au](mailto:boards@dpc.gov.nsw.au).

## **5.6 Appointments by departments and agencies**

Board and committee appointments which do not require Ministerial or Cabinet approval will still require some level of approval by the department or agency. A submission should be prepared for the approver's consideration (e.g. Secretary or other appropriate approver) which covers the same key points required for Cabinet or a Minister's approval.

## **5.7 Appointment letter**

Once an appointment has been approved, the new member should be advised in writing by the Minister or relevant agency and provided with a copy of the board or committee's code of conduct and induction pack. Members should sign and return a copy of the letter, code of conduct and completed pecuniary interest declaration for inclusion in the board or committee's records.

## **5.8 Expiry, reappointment and termination of appointments**

Members may leave a board or committee for a variety of reasons including where the member's term has expired, the member has resigned or the member has been asked to resign.

### **5.8.1 Expiry**

Board and committee members' terms are for a fixed period. Terms should be monitored to ensure that upcoming vacancies can be filled upon expiry.

### **5.8.2 Member reappointments**

As good practice, members should not serve more than two consecutive terms on a board or committee, unless otherwise stipulated in legislation or where such limitation would be contrary to the public interest.<sup>15</sup>

Member reappointments require a submission to be prepared for Cabinet or the appropriate approvers' consideration as per the normal appointment process. For reappointments beyond two terms, the submission should include justification as to why this is recommended.

### **5.8.3 Terminations of appointments prior to expiry**

In some exceptional cases, a member's appointment may need to be terminated prior to the expiry of their term, for example where:

- The member is no longer able to commit adequate time to his or her role
- There has been a disagreement with other members that cannot be resolved
- There is a conflict of interest that cannot be mitigated
- The member no longer meets the membership criteria, such as where the member:
  - was appointed as a representative of another entity and no longer represents that entity
  - is declared bankrupt
  - is convicted of a criminal offence
  - is unable to perform the duties of office due to illness or other commitments
  - has failed to attend an adequate number of meetings
  - breached the board or committee's code of conduct
  - breached the Lobbyist Code of Conduct (see section 5.8 below).

In these circumstances, the matter should be referred to the head of the relevant department or agency and/or the Minister.

Agencies are requested to advise the Ministerial and Correspondence Services Branch in the Department of Premier and Cabinet of terminated appointments by emailing [boards@dpc.nsw.gov.au](mailto:boards@dpc.nsw.gov.au).

## **5.9 Certain Lobbyists ineligible for appointment**

Lobbyists and the employees, contractors or persons otherwise engaged by the lobbyist to carry out lobbying activities are ineligible for appointment to any Government board or committee if the functions of the board or committee relate to any matter on which the lobbyist (or person engaged by the lobbyist) represents the

---

<sup>15</sup> Public Service Commission, *Appointment Standards – Boards and Committees in the NSW Public Sector* available at: [www.psc.nsw.gov.au](http://www.psc.nsw.gov.au)

interests of third parties, or has represented the interests of third parties in the 12 months prior to the date of the proposed appointment.<sup>16</sup>

Lobbyists appointed to Government boards or committees must not represent the interests of a third party to a Government Representative in relation to any matter that relates to the functions of the board or committee. Lobbyists can be removed from the Register for breaches of this requirement.<sup>17</sup>

This policy applies to all NSW Government boards and committees, including the boards of State Owned Corporations.

### **5.10 Privacy and Personal Information Protection Act 1998**

NSW public sector entities including boards and committees must observe the *Privacy and Personal Information Protection Act 1998* when collecting and handling information relating to members or potential candidates for membership.

Entities requesting personal information from members or potential candidates must make the person aware of the purposes for which the information is being collected, the intended recipients of the information, why it is necessary for the information to be collected and the right to access and correct the information.

Individuals should be informed that their personal information may be disclosed to other NSW Government departments and agencies, including the Department of Premier and Cabinet, and/or Ministers for the purposes of the appointment process.

The personal information should not be used for any purpose that was not originally disclosed to the person unless the person has consented to that use.

### **5.11 Working With Children Check**

A Working With Children Check is a prerequisite for paid and unpaid child-related work and may be required for membership of some boards and committees. Please contact the Office of the Children's Guardian for more information.<sup>18</sup>

### **5.12 Members contesting elections**

Board members are considered to be public sector employees when contesting elections. Members of boards and committees should be aware of arrangements for contesting elections. These are outlined in the joint Department of Premier and Cabinet Circular C2013-04 and Public Service Commission Circular 2013-03 *Contesting Elections*.<sup>19</sup>

---

<sup>16</sup> Premier's Memorandum M2014-13 *NSW Lobbyists Code of Conduct* available at: [www.dpc.nsw.gov.au](http://www.dpc.nsw.gov.au)

<sup>17</sup> *NSW Lobbyists Code of Conduct*. For further information, and to view the current list of registered lobbyists, please visit the NSW Electoral Commission website at: [www.lobbyists.elections.nsw.gov.au](http://www.lobbyists.elections.nsw.gov.au)

<sup>18</sup> More information is available at: [www.kidsguardian.nsw.gov.au](http://www.kidsguardian.nsw.gov.au)

<sup>19</sup> Department of Premier and Cabinet Circular C2013-04 and Public Service Commission Circular PSCC2013-03 *Contesting Elections* available at: [www.dpc.nsw.gov.au](http://www.dpc.nsw.gov.au)

## 6 Member induction and development

All board and committee members should be appropriately briefed on their role and accountabilities. This should include an induction at the commencement of their membership and ongoing member development opportunities.

### 6.1 Induction

The induction of new members is an important process that may be delivered by the board or committee and/or department or agency staff.

The induction should include an opportunity to meet with the Chair and other members, relevant training and an induction package. The induction package may include:

- Letter of appointment specifying the term of appointment, roles and responsibilities of the member and level of remuneration
- A copy of the establishing legislation, charter and code of conduct
- A brief history of the board or committee, information about current members and copies of minutes from meetings held over the last 12 months
- A schedule of board or committee meeting dates, attendance requirements, arrangements for notice of absence and upcoming meeting dates
- Relevant information about the public sector and the board or committee's role within the context of government (including an organisation chart)
- For governing boards, an overview of the governed entity, strategic and operational plans, financial statements and annual report
- Information about the board or committee's operating environment, including brief discussion of relevant trends, issues and stakeholder groups
- Copies of any delegations in place
- Arrangements for declaring interests including conflicts of interest
- Government policy statements affecting the board or committee.

## 7 Conduct of members

As public officials, members of boards and committees have a particular obligation to act in the public interest. All members of NSW Government boards and committees must:

- Comply with the Ethical Framework for the public sector set out in the *Government Sector Employment Act 2013*
- Comply with the board or committee's Code of Conduct
- Have a clear understanding of their public duty and legal responsibilities
- Act for a proper purpose and without exceeding their powers.

The primary source of information on the role and functions of the board or committee is the board or committee's Charter document and/or the legislation which establishes the board or committee and its functions.

Boards and committees must also comply with a broad range of whole of government regulations and policies including those stipulated in legislation, regulations, Ministerial Memoranda, Department of Premier and Cabinet Circulars, Treasury publications and Public Service Commission policy documents.

All members of NSW Government boards and committees should consider the following factors when carrying out their duties.

## 7.1 Code of conduct

Each board and committee should have a Code of Conduct defining its values and the minimum standards of behaviour expected of its members. Codes of Conduct should be periodically reviewed and where necessary amended to reflect any changes in circumstances. The Code should be endorsed by the board or committee and signed by each member. For governing boards, consideration should be given to making sure the governed entity also has a Code of Conduct for its staff.

Further guidance may be obtained from the Public Service Commission's *Direction No 1 of 2015*<sup>20</sup> and *Behaving Ethically: A guide for NSW government sector employees*.<sup>21</sup>

### 7.1.1 Lobbying

The *NSW Government Lobbyist Code of Conduct* regulates contact between registered lobbyists and Government representatives and restricts the circumstances in which a lobbyist can be appointed to a NSW Government board or committee.

NSW Government boards and committees should consider incorporating some or all aspects of the Lobbyist Code as part of their own Code of Conduct as appropriate, particularly having regard to the extent of the involvement of members of the board or committee in Government decision-making and policy development.<sup>22</sup>

## 7.2 Public expenditure

Members must ensure the efficient and responsible expenditure of public monies in accordance with legislation and Government policies and guidelines. Members of governing boards must comply with government financial, asset management and procurement requirements. Information on financial and asset management requirements is available from NSW Treasury. Information on procurement requirements is available from the Department of Finance, Services and Innovation.

---

<sup>20</sup> Public Service Commission, *Direction No 1 of 2015* available at: [www.psc.nsw.gov.au](http://www.psc.nsw.gov.au)

<sup>21</sup> Public Service Commission, *Behaving Ethically: A guide for NSW government sector employees* available at: [www.psc.nsw.gov.au](http://www.psc.nsw.gov.au)

<sup>22</sup> For further information, and to view the current list of registered lobbyists, please visit the NSW Electoral Commission website at: [www.lobbyists.elections.nsw.gov.au](http://www.lobbyists.elections.nsw.gov.au)

### 7.3 Ethical decision making

Decisions of the board or committee should be made in the light of applicable legislation, the code of conduct, Government policy and agency objectives. Decisions and outcomes must be in the public interest and be able to withstand public scrutiny. Conflicts of interest, including personal gain at public expense, must be avoided.

### 7.4 Conflicts of interest

Members of government boards and committees are appointed for their expertise and skill in particular areas. As a consequence of their expertise in these areas there may be the potential for conflicts of interest to arise between a member's duties to the board or committee, and his or her personal interests (or his or her duties towards others).

A conflict of interest exists when it is likely that a member could be influenced by a personal or business interest. If a conflict of interest leads to partial decision making, it may constitute corrupt conduct. A conflict of interest, whether real, potential or perceived, may arise for example from:

- Other directorships or employment
- Professional and business interests and associations
- Investment interests or the investment interests of friends or relatives
- Family relationships
- Participation in party political activities
- Personal beliefs or attitudes that affect impartiality.

A member has a duty to declare any private interest that may impinge on a board or committee decision. When an issue arises, the board or committee member must as soon as practicable disclose full and accurate details of the interest or issue to the board or committee. A member must disclose interests to the board or committee (which include positions and pecuniary interests) in corporations, partnerships or other businesses or organisations that may be relevant to the activities of the board or committee. A member's interests include those of an associate or close relative. Disclosure should be made at the beginning of a member's term and during the term as necessary. A register of such interests should be maintained by the board or committee and must also be reported to the Minister. A [Member's Pecuniary Interest Declaration Form](#) (Appendix 5) should be used to disclose relevant interests.

### 7.5 Mechanisms for Avoiding or Managing a Conflict of Interest

Where a conflict of interest has been identified, the matter should be considered by the board or committee. The board or committee should make a decision as to how to manage the conflict of interest and record reasons for that decision.

There are a number of ways of managing conflicts of interest including:



- Agreeing that the member will not to take part in any discussion of the board or committee relating to the interest or issue, not receive any relevant board or committee papers, be absent from the meeting room when any discussion or vote is taking place and not vote on the matter
- Divestment of the interest/issue that is creating the conflict, for example the sale of shares
- Severing the connection, for example resignation from a position in another organisation giving rise to the conflict
- Resignation of the member from the board or committee

The Code of Conduct, particularly the section on conflicts of interest, should address areas of concern or risk to the board or committee and include specific examples where possible. The establishing legislation may also include requirements for managing conflicts of interest. For information on dealing with conflicts of interest, please contact the Independent Commission Against Corruption (ICAC).

## **7.6 Use of public resources**

Furniture, equipment, staff and other resources may be provided to a board or committee to perform its functions and should be used only in relation to those functions and in accordance with any guidelines or rules about the use of those resources.

## **7.7 Use of official information**

Members must not disclose official information or documents acquired as a consequence of their membership, other than as required by law, or when the member has been given proper authority to do so.

## **7.8 Gifts and benefits**

Members should be aware that it is illegal to seek, offer or receive money or gifts in order to obtain a benefit or favour. Members must also not accept gifts or benefits that could place them under an actual or perceived financial or moral obligation to another organisation or individual. Gifts or hospitality of nominal value may be accepted in limited circumstances where the member's position will not be compromised. A board or committee may establish a Register of Gifts to provide a high degree of transparency. For further information refer to ICAC.

## **7.9 Reporting suspected corrupt conduct**

Corrupt conduct can be generally understood as the dishonest or partial exercise of public official functions. It may also involve the conduct of non-public officials which adversely affects the honest and impartial exercise of a public official's functions. Principal officers are required to report corrupt conduct or suspected corruption to ICAC.<sup>23</sup> A principal officer of a public authority is its most senior officer, usually the

---

<sup>23</sup> Section 11 of the *Independent Commission Against Corruption Act 1988*

Secretary, Chief Executive Officer, General Manager or Chairperson of a board or committee.

For conduct to be considered corrupt under the *Independent Commission Against Corruption Act 1988* definition it has to be serious enough to involve a criminal offence, a disciplinary offence, be grounds for dismissal or, in the case of Members of Parliament, involve a substantial breach of their Code of Conduct.

A report must be made to the ICAC as soon as you have a reasonable suspicion that corrupt conduct may have occurred or may be occurring. Matters must be reported to the ICAC regardless of any duty of secrecy or other restriction on disclosure. It is important that reports to the ICAC be made without advising the person(s) to whom the report relates and without publicity.

The *Public Interest Disclosures Act 1994* provides protection to public officials who voluntarily report suspected corrupt conduct. Board and committee members can make reports to the Chairperson of the Board or to the principal officer of the relevant public authority where that is available to the board or committee in accordance with the agency's internal reporting guidelines. Members can also report directly to the following investigative bodies:

- Disclosures concerning corrupt conduct should be made to the ICAC
- Disclosures concerning maladministration should be made to the NSW Ombudsman
- Disclosures concerning serious and substantial waste of public money should be made to the NSW Auditor General

## 8 Remuneration and other financial considerations

A number of remuneration and financial considerations may arise in respect of boards and committees. Agencies should seek independent professional advice for any specific matters arising in relation to particular boards and committees.

### 8.1 Classification and Remuneration Framework for NSW Government Boards and Committees

The Public Service Commission has developed a *Classification and Remuneration Framework for NSW Government Boards and Committees*<sup>24</sup> covering all boards and committees where appointments require Ministerial or Cabinet approval. The Remuneration Framework provides a consistent, equitable and fiscally responsible approach to determining fees payable to chairs and members.

For board and committee appointments which do not require Ministerial or Cabinet consideration, a recommendation from the Public Service Commissioner is not

---

<sup>24</sup> Premier's Memorandum M2012-18: *Classification and Remuneration Framework for NSW Government Boards and Committees* available at: [www.dpc.nsw.gov.au](http://www.dpc.nsw.gov.au). Guidelines to assist agencies implement the classification and remuneration framework are available at: [www.psc.nsw.gov.au](http://www.psc.nsw.gov.au)

required. Payment of any fees to members of these boards and committees should however be consistent with the Remuneration Framework.

## 8.2 Payments to individuals

NSW Government policy is that payment of any fees and/or allowances and reimbursement of expenses is to be made to the individual board or committee member.

There may be limited circumstances where the statutory instrument establishing a board or committee or its Charter specifies that a particular organisation is to be represented on the board or committee. In this instance, remuneration may be paid to that organisation instead of the individual member. Members who are required to remit the fees to their organisation should provide written confirmation from the organisation for Pay As You Go (PAYG) withholding purposes.

## 8.3 Payments to Public Sector Employees

In line with policy decisions against “double-dipping”, public sector employees appointed to NSW government boards or committees do not receive remuneration.

Ministers may seek an exemption from this policy from the Public Service Commissioner in circumstances where public sector employees serving on boards or committees:

- Have the approval of their employing agency to sit on the board or committee
- Are not acting as a representative of their employer or of the Government
- Work for the board or committee concerned will take place outside working hours or approved leave will be taken at the time and
- There is no conflict of interest arising from the combination of their role as a public sector employee and their role on the board or committee.

It should be noted that all employees of NSW public service Departments, statutory bodies outside the public service and State Owned Corporations are considered to be public sector employees for the purposes of this policy.

## 8.4 Taxation obligations

Agencies may have taxation obligations arising from the remuneration of members of boards and committees including:

- PAYG withholding<sup>25</sup>
- Superannuation guarantee contributions<sup>26</sup>
- Fringe Benefits Tax (FBT)<sup>27</sup>

<sup>25</sup> For further guidance please refer to Australian Taxation Office *Taxation Ruling TR 2002/21 Income Tax: Pay As You Go (PAYG) Withholding from salary, wages, commissions, bonuses or allowances paid to office holders (TR 2002/21)* and *Taxation Ruling 2005/16: Income Tax: Pay as You Go – withholding from payments to employees (TR 2005/16)*

<sup>26</sup> Obligations may arise under either the *First State Superannuation Act 1992 (NSW)* or the *Superannuation Guarantee (Administration) Act 1992 (Cth)*

- Goods and Services Tax (GST)<sup>28</sup>

Taxation obligations will depend on the functions of the board or committee, the manner in which the board or committee is established and the appointment and duties of the member. The starting point for this analysis should be the statutory instrument establishing the board or committee or its terms of reference or other constituting documents.

Agencies should seek independent professional advice for any specific taxation matters arising in relation to particular boards and committees. Further information is also available on the Australian Taxation Office website at [www.ato.gov.au](http://www.ato.gov.au).

Members of boards and committees must seek their own professional advice on such matters.

## 8.5 Out of pocket expenses

Board and committee members may be reimbursed for legitimate expenses incurred while carrying out their duties such as travel, accommodation and meals. Board and committee members may, in some instances, also receive an allowance for the use of a private motor vehicle. Receipts must be provided for all amounts being claimed. Arrangements relating to the reimbursement of expenses and payment of motor vehicle allowances should be stipulated in the board or committee's establishing legislation and/or charter and must comply with relevant Department of Premier and Cabinet Memorandum and Circulars and Public Service Commission Directives.

### 8.5.1 Travel, accommodation and meals

Board and committee members are entitled to be reimbursed the amount of actual expenses incurred when required to travel on official business. Travel arrangements must comply with NSW Treasury and Finance Circular OFS-2014-07: *Official Travel within Australia and Overseas*.<sup>29</sup>

Approved daily amounts are published in the NSW Treasury and Finance Circular OFS-2014-08 *Australian and Overseas Travelling Allowances for Official Travel for Senior Officials*.<sup>30</sup> The table below summarises the application of these amounts to members of boards and committees.

---

<sup>27</sup> For further guidance please refer to NSW Treasury TPP 13-02 *Fringe Benefits Tax Manual Policy and Guidelines Paper* dated September 2013 available at: [www.treasury.nsw.gov.au](http://www.treasury.nsw.gov.au)

<sup>28</sup> Members who are independent contractors for tax purposes should provide the paying entity with a valid tax invoice so that the paying entity can claim any GST input tax credit in relation to the payment made to the member

<sup>29</sup> NSW Treasury and Finance Circular OFS-2014-07: *Official Travel within Australia and Overseas* available at: [www.finance.nsw.gov.au](http://www.finance.nsw.gov.au)

<sup>30</sup> NSW Treasury and Finance Circular OFS-2014-08: *Australian and Overseas Travelling Allowances for Official Travel for Senior Officials* available at: [www.finance.nsw.gov.au](http://www.finance.nsw.gov.au)

| <b>Remuneration</b>  | <b>Domestic travel</b>  | <b>Overseas travel</b>   |
|--|---|--|
| Classified as level 1 or 2 in any of the Remuneration Framework classification groups or receive a daily sitting fee | Reimbursed the cost of actual expenses incurred up to the maximum daily amounts in Category C in the ATO Table  | Receive an allowance at the non-SES daily rate   |
| Classified under one of the remaining levels in any of the Remuneration Framework classification groups              | Reimbursed the cost of actual expenses incurred up to the maximum daily amounts in Category 'A' or 'B' in the ATO Table, subject to the portfolio Minister's approval | Receive an allowance at the SES rate or the Department Head Rate, subject to the portfolio Minister's approval |

### **8.5.2 Use of private motor vehicles**

The relevant agency head, or other appropriate approver, may authorise a board or committee member to use a private motor vehicle for work where:

- it will result in greater efficiency or involve the Department in less expense than if travel were undertaken by other means; or
- the board or committee member is unable to use other means of transport due to a disability.

The conditions for the payment of these allowances are the same as those under the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009*.<sup>31</sup>

<sup>31</sup> For current rates please refer to Treasury Circular NSWTC 14/30 *Review of Meal, Travelling and Other Allowances* available at: [www.treasury.nsw.gov.au](http://www.treasury.nsw.gov.au)

## 9 Contacts for further information and advice

NSW Government boards and committees are supported by a number of agencies who can be contacted for further information and advice.

### 9.1 Department of Premier and Cabinet

The Ministerial and Correspondence Services Branch can provide additional assistance to departments and agencies about NSW Government boards and committees. Please contact Ministerial and Correspondence Services Branch at:

Department of Premier and Cabinet  
Level 8  
52 Martin Place  
SYDNEY NSW 2000  
Phone: (02) 9228 4199  
Email: [boards@dpc.nsw.gov.au](mailto:boards@dpc.nsw.gov.au)  
Fax: (02) 9228 4004  
[www.boards.dpc.nsw.gov.au](http://www.boards.dpc.nsw.gov.au)

The Cabinet Secretariat Branch can provide assistance to departments and agencies regarding the Cabinet appointment process. Please contact Cabinet Secretariat Branch at:

Department of Premier and Cabinet  
Level 14  
52 Martin Place  
SYDNEY NSW 2000  
Phone: (02) 9228 4605  
Email: [peggy.phan@dpc.nsw.gov.au](mailto:peggy.phan@dpc.nsw.gov.au)

### 9.2 Public Service Commission

For more information on the Remuneration Framework and Appointment Standards, please contact:

Public Service Commission  
Level 14-17, Bligh House  
4-6 Bligh Street  
SYDNEY NSW 2000  
Phone: (02) 9272 6006 or (02) 9228 6051  
Email: [boardremuneration@psc.nsw.gov.au](mailto:boardremuneration@psc.nsw.gov.au)  
[www.psc.nsw.gov.au](http://www.psc.nsw.gov.au)

# 10 Appendices

# Appendix 1: Appointment Form

All sections of this form, the Statistical Nomination form and Appointment Process Information form must be complete

## 1. Entity details

|   |  |
|---|--|
| Entity Name<br><input type="text"/>       | Portfolio<br><input type="text"/>                                      |
| Cluster<br><input type="text"/>           | Establishing Instrument<br><input type="text"/>                        |
| Meeting frequency<br><input type="text"/> | New entity<br><input type="checkbox"/> Yes <input type="checkbox"/> No |

## 2. Position details

|   |  |   |   |
|---|--|---|---|
| Position type:<br><input type="checkbox"/> Chair <input type="checkbox"/> Member  | Ex Officio:<br><input type="checkbox"/> Yes <input type="checkbox"/> No  | Position title: (e.g. Director, Trustee etc.)<br><input type="text"/> | Membership type:<br><input type="checkbox"/> Full-time <input type="checkbox"/> Part-time |
| Does the appointment require:<br>Cabinet consideration <input type="checkbox"/> Yes <input type="checkbox"/> No<br>Governor approval <input type="checkbox"/> Yes <input type="checkbox"/> No | Reason for appointment<br><input type="checkbox"/> New Appointment – position was:<br><input type="checkbox"/> Reappointment – proposed appointee was first appointed in the year: |   |   |
| Criteria for appointment to position (attach separate sheet if necessary)<br><input type="text"/>   |  |   |   |

## 3. Appointee's Details

|  |   |                                       |                                   |                                       |
|--|---|---------------------------------------|-----------------------------------|---------------------------------------|
| Title<br><input type="text"/>                        | First Name<br><input type="text"/>                                      | Middle Name<br><input type="text"/>   | Last Name<br><input type="text"/> | Post-nominals<br><input type="text"/> |
| Home Address<br><input type="text"/>                 | Gender<br><input type="checkbox"/> Male <input type="checkbox"/> Female | Date of Birth<br><input type="text"/> |                                   |                                       |
| Email address<br><input type="text"/>                | Telephone<br><input type="text"/>                                       | Mobile<br><input type="text"/>        |                                   |                                       |
| Qualifications and expertise<br><input type="text"/> |   |                                       |                                   |                                       |

Is the appointee:

|  |  |
|--|--|
| 1. a public sector employee?                           | <input type="checkbox"/> No <input type="checkbox"/> Yes –                                   |
| 2. on the Lobbyist Register?                           | <input type="checkbox"/> No <input type="checkbox"/> Yes – refer to M2014-13 for eligibility |
| 3. a member of other Government boards and committees? | <input type="checkbox"/> No <input type="checkbox"/> Yes –                                   |

|   |                                    |                                     |                                    |
|---|------------------------------------|-------------------------------------|------------------------------------|
| Term of appointment<br><input type="text"/> | Start date<br><input type="text"/> | Expiry date<br><input type="text"/> | Nominee of<br><input type="text"/> |
|---|------------------------------------|-------------------------------------|------------------------------------|

## 4. Public Service Commission Classification and Remuneration Framework (refer to Premier's Memorandum M2012-18)

|   |  |  |
|---|--|--|
| PSC approval date<br><input type="text"/> | Entity Group & Level<br>Group:<br><input type="text"/><br>Level:<br><input type="text"/> | Remuneration range for the position type under the Framework<br><input type="checkbox"/> Annual range: \$ to \$<br><input type="checkbox"/> Daily sitting fee of (or up to) \$ |
|---|--|--|

Recommended remuneration for the position (as supported by the PSC)

|   |  |                                 |
|---|--|---------------------------------|
| <input type="checkbox"/> Annual fee of \$ | <input type="checkbox"/> Daily fee of \$ | <input type="checkbox"/> No fee |
|---|--|---------------------------------|

## 5. Appointee's Remuneration (to be approved by Minister/Cabinet)

|  |  |                                 |                                |
|--|--|---------------------------------|--------------------------------|
| Recommended remuneration for the appointee |  |                                 |                                |
| <input type="checkbox"/> Annual fee of \$  | <input type="checkbox"/> Daily sitting fee of \$ | <input type="checkbox"/> Unpaid | <input type="checkbox"/> Other |

## 6. Existing Members and Term Expiry Dates (attach a separate sheet if necessary)

|       |              |       |              |
|-------|--------------|-------|--------------|
| Name: | Term expiry: | Name: | Term expiry: |
| Name: | Term expiry: | Name: | Term expiry: |
| Name: | Term expiry: | Name: | Term expiry: |



## Appendix 2: Statistical Nomination Form

### Department of Premier and Cabinet Nominee Statistical Information Form

This document is to accompany the appointment form and replaces the covering letter. Omission of any information may delay appointments to Cabinet.

- Please list all nominations being put forward for appointment/reappointment and provide statistical information.

| NAME | PLEASE TICK   |
|------|---|
| 1.   | <input type="checkbox"/> Male <input type="checkbox"/> Female<br><input type="checkbox"/> Culturally diverse, specify ancestry _____<br><input type="checkbox"/> Aboriginal <input type="checkbox"/> Person with a disability <input type="checkbox"/> Young person |
| 2.   | <input type="checkbox"/> Male <input type="checkbox"/> Female<br><input type="checkbox"/> Culturally diverse, specify ancestry _____<br><input type="checkbox"/> Aboriginal <input type="checkbox"/> Person with a disability <input type="checkbox"/> Young person |
| 3.   | <input type="checkbox"/> Male <input type="checkbox"/> Female<br><input type="checkbox"/> Culturally diverse, specify ancestry _____<br><input type="checkbox"/> Aboriginal <input type="checkbox"/> Person with a disability <input type="checkbox"/> Young person |
| 4.   | <input type="checkbox"/> Male <input type="checkbox"/> Female<br><input type="checkbox"/> Culturally diverse, specify ancestry _____<br><input type="checkbox"/> Aboriginal <input type="checkbox"/> Person with a disability <input type="checkbox"/> Young person |
| 5.   | <input type="checkbox"/> Male <input type="checkbox"/> Female<br><input type="checkbox"/> Culturally diverse, specify ancestry _____<br><input type="checkbox"/> Aboriginal <input type="checkbox"/> Person with a disability <input type="checkbox"/> Young person |

- Name of Board: \_\_\_\_\_
  - What is the current composition of the board or committee: M:F .....
  - What is the proposed composition of the board or committee: M:F .....
- Minister's Offices and Agencies are asked to consider women when putting forward nominations and encouraged to use the Department of Premier and Cabinet's register to find suitable candidates to fill vacancies and advertise on the web site [www.boards.dpc.nsw.gov.au](http://www.boards.dpc.nsw.gov.au)

To use the register or advertise please contact [boards@dpc.nsw.gov.au](mailto:boards@dpc.nsw.gov.au) or phone 9228 4199

- If there are any questions regarding these appointments Department of Premier and Cabinet should contact:

Name: \_\_\_\_\_ Phone \_\_\_\_\_

Email \_\_\_\_\_

- If your Board/Committee requires remuneration to be set, to claim an exemption for public servants for payment or any other remuneration claim, please contact Public Service Commission on 92726006.

Use this form for an appointment to a NSW board or committee.  
This information is not required for Statutory Officers, Judicial Officers or ex officio appointments.

Entity name

Candidate name

## Merit and Fairness

---

### 1. Was the vacancy advertised?

Yes  No –

*Advertisement followed guidelines for recruitment advertising in the NSW public sector.*

### 2. Did an assessment panel/committee assess the candidate?

Yes  No –

*An approved panel/committee was constituted which included both men and women, and at least one person with relevant subject matter knowledge.*

## Diversity

---

### 3. How was consideration given to the principle of diversity, including the representation of Aboriginal and Torres Strait Islander people, women, people from culturally and linguistically diverse backgrounds, people with a disability and young people?

## Integrity

---

### 4. Was a referee check conducted on the candidate prior to their nomination?

Yes  No –

### 5. Were probity checks conducted on the candidate prior to their nomination?

Yes –  No –

*The following probity checks were conducted, and did not preclude the candidate's suitability for the position:*

- ASIC Banned and Disqualified search
- ASIC Enforceable Undertakings Register search
- Australian Financial Security Authority National Personal Insolvency Index search
- NSW Police Force National Police Check
- Office of the Children's Guardian Working with Children Check



# Minute Paper for the Executive Council

*Subject: - [Insert Subject – Palatino 14 italic]*

[Insert Department – Palatino 14]

Document Number: [Insert # - Palatino 10]

*Approved by the  
Executive Council,*

I RECOMMEND for the approval of  
His Excellency the Governor, with the  
advice of the Executive Council, that  
[Insert Relevant Text - Palatino 14]

*Clerk of the Council.*

*Minute No.*

*Date*

*Approved,*

*Governor*

[Insert Minister’s Name – Palatino 14]  
**[Insert Minister’s Portfolio – Palatino  
14 Bold + Underline]**

*His Excellency the Governor  
and The Executive Council*

### MEMBER'S PECUNIARY INTERESTS DECLARATION AND UNDERTAKING

[INSERT BOARD/COMMITTEE NAME]

---

I, [INSERT MEMBER'S NAME], give the following undertaking:

1. There is no matter I am aware of concerning my interests\*, or any activity in which I am or have been engaged, that may call into question the probity of the [Board/Committee], or give rise to any conflict with my responsibilities as a member of that [Board/Committee];
2. I am aware that I must exercise my responsibilities as a member of the [Board/Committee] in accordance with the Code of Conduct for the [Board/Committee].
3. I have the following interests\* in corporations, partnerships, businesses or other organisations that may be relevant to the activities of the [Board/Committee]:

*Sources of income:*

.....  
.....

*Memberships of Boards and Committees:*

.....  
.....

*Interests and positions in corporations, partnerships and/or businesses:*

.....  
.....

*Interests and positions in trade unions, professional, business or community associations and organisations:*

.....  
.....

4. I will formally advise the [Board/Committee] and the [Name of Agency] of any significant change in circumstances that affects the accuracy of this declaration and undertaking.

Signature:

Date:

\*A member's interests include those of an associate or close relative.



**Hurstville City Council**

# **Civic Office Expenses Policy 2015**

Released: 15 September 2015

# Document Status and Version Control

## Ownership and Version Control

|                           |                                    |
|---------------------------|------------------------------------|
| Document Name:            | Civic Office Expense Policy        |
| Document Status:          | Adopted                            |
| Date commenced:           | 9 September 2015                   |
| Author:                   | Katherine Garske                   |
| Document Owner:           | Manager Corporate Governance       |
| Authorised By:            | Council Resolution                 |
| Distribution:             | Councillors and public via website |
| Council Report Reference: | CCL760-15                          |
| Council Meeting Date:     | 1 July 015                         |
| Document No:              | CD14/11                            |
| File No                   | 15/543                             |

## Change History

| Version | Council Meeting | Release Date | Author    | Reason for Change  |
|---------|-----------------|--------------|-----------|--|
| 0.1     | 25/08/10        | 25/08/10     | W. Park   | Draft for adoption by Council  |
| 1.0     | 25/08/10        | 10/09/10     | K. Garske | Amendment of report as adopted.  |
| 1.1     |                 | 4/5/11       | K. Garske | Draft for Public Exhibition  |
| 2.0     | 27/07/11        | 28/07/11     | K Garske  | Adopted by Council (CCL127-11)   |
| 2.1     | 7/03/12         | 22/03/12     | K Garske  | General amendments and Councillor Communication Package  |
| 3.0     | 16/05/12        | 08/09/12     | K Garske  | Adopted by Council (CCL210-12)   |
| 3.1     |                 |              | K Garske  | Addition to Communication Package and other minor amendments   |
| 4.0     | 21/11/12        | 22/11/12     | K Garske  | Adopted by Council (CCL462-12)   |
| 4.1     |                 | 11/12/12     | F.Segovia | Minor amendment to Communication package.  |
| 4.2     | 12/12/12        | 14/12/12     | K Garske  | Mayor's Community Fund (CCL506-12)   |
| 4.3     | 12/6/13         | 20/6/13      | K Garske  | Draft for Public Exhibition: Minor amendments to acquittals, taxi charge card & return of equipment                                |
| 4.4     | 7/8/13          | 1/8/13       | K Garske  | Draft for adoption   |
| 5.0     | 7/8/13          | 8/8/13       | K Garske  | Adopted by Council (CCL239-13)   |
| 5.1     | 21/5/14         | 15/5/14      | K Garske  | Draft for public exhibition: Minor changes to reimbursement requirements and allowances, title changes, and legislative references |
| 5.2     | 6/08/14         | 31/08/14     | K Garske  | Draft for adoption; amendment of Sister City reimbursements as per Council resolution CCL171-14                                    |
| 6.0     | 6/08/14         | 18/8/14      | K Garske  | Adopted by Council (CCL241-14)   |
| 6.1     | 20/05/15        | 14/5/15      | W Park    | Draft to Council for public exhibition   |
| 6.2     | n/a             | 18/6/15      | K Garske  | Draft for review at Councillor Workshop  |
| 6.3     | 1/7/15          | 2/7/15       | K Garske  | Draft for Public Exhibition  |
| 6.4     | 2/9/15          | 15/9/15      | K Garske  | Adopted Policy (CCL878-15)   |

## Related Documents

This document should be read in conjunction with:

- Local Government Act 1993
- Division of Local Government, *Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, October 2009*
- Division of Local Government Circular 09-36, October 2009
- Credit Card & Reimbursements Policy

## Table of Contents

|  |           |
|--|-----------|
| <b>PART 1 – INTRODUCTION.....</b>  | <b>3</b>  |
| 1. Title, Commencement of the Policy .....                                     | 3         |
| 2. Purpose of the Policy .....   | 3         |
| 3. Objectives and Coverage of the Policy .....                                 | 3         |
| 4. Making and Adoption of the Policy .....                                     | 3         |
| 5. Reporting Requirements .....  | 3         |
| 6. Legislative Provisions.....   | 4         |
| 7. Other Government Policy Provisions .....                                    | 5         |
| 8. Approval Arrangements .....   | 5         |
| At Conferences etc.....  | 5         |
| At Functions .....   | 5         |
| At Forums.....   | 6         |
| At Events.....   | 6         |
| <b>PART 2 – PAYMENT OF EXPENSES .....</b>                                      | <b>6</b>  |
| <b>GENERAL PROVISIONS .....</b>  | <b>6</b>  |
| 9. Payment of Expenses Generally .....   | 6         |
| Allowances and Expenses .....  | 6         |
| Reimbursement and Reconciliation of Expenses.....                              | 6         |
| Payment in Advance (Sustenance Allowance) .....                                | 7         |
| Personal Interests .....   | 7         |
| Dispute resolution .....   | 7         |
| 10. Establishment of Monetary Limits and Standards.....                        | 7         |
| 11. Spouse and Partner Expenses .....  | 7         |
| <b>SPECIFIC EXPENSES FOR MAYORS AND COUNCILLORS.....</b>                       | <b>7</b>  |
| 12. Attendance at Seminars and Conferences .....                               | 7         |
| Who May Attend Conferences .....   | 7         |
| What Conferences May Be Attended.....  | 7         |
| Registration.....  | 8         |
| Categories of Payment or Reimbursement.....                                    | 8         |
| Travel .....   | 8         |
| Travel – Hire Car / Taxi .....   | 8         |
| Private Benefit.....   | 8         |
| Accommodation .....  | 9         |
| Councillors Accompanied by Spouses/Partners .....                              | 9         |
| Expenses (including Sustenance Allowance) .....                                | 9         |
| Sister City Relationships .....  | 10        |
| 13. Training and Educational Expenses.....                                     | 10        |
| 14. Local Travel Arrangements and Expenses .....                               | 10        |
| (ii) Private Motor Vehicle .....   | 11        |
| Travel outside the Council area, including Interstate and Overseas Travel..... | 11        |
| (iii) Interstate Travel .....  | 11        |
| (iv) Overseas Travel .....   | 11        |
| (v) Electronic Communication Packages.....                                     | 11        |
| (vi) Care and Other Related Expenses .....                                     | 14        |
| (vii) Insurance Expenses and Obligations.....                                  | 15        |
| (viii) Legal Expenses and Obligations .....                                    | 15        |
| <b>PART 3 – PROVISION OF FACILITIES.....</b>                                   | <b>15</b> |
| 15. GENERAL PROVISIONS.....  | 15        |
| 16. Provision of Equipment and Facilities for Councillors .....                | 16        |
| Stationery .....   | 16        |
| Secretarial Assistance.....  | 16        |
| Computers / Email.....   | 16        |
| Council Chambers.....  | 16        |
| Provision of a SOE computer and monitor for use at meetings of council. ....   | 16        |
| Multi-purpose device .....   | 16        |
| Meals and Refreshments .....   | 16        |
| Meeting Rooms .....  | 16        |

|     |  |           |
|-----|--|-----------|
|     | Councillors' Offices .....                                       | 17        |
|     | Parking Facilities .....   | 17        |
|     | Access to Council Offices .....                                  | 17        |
| 17. | Provision of Additional Equipment and Facilities for Mayor ..... | 17        |
|     | Secretarial Services .....                                       | 17        |
|     | Administrative Support .....                                     | 17        |
|     | Mayoral Office .....   | 17        |
|     | Stationery .....   | 17        |
|     | Parking .....  | 18        |
|     | Corporate Credit Card .....                                      | 18        |
|     | Mayoral Robes and Chains of Office .....                         | 18        |
|     | Presentation Gifts.....  | 18        |
|     | Mayor's Community Fund .....                                     | 18        |
|     | <b>PART 4 – OTHER MATTERS .....</b>                              | <b>18</b> |
| 19. | Status of the Policy .....                                       | 18        |
| 20. | Code of Conduct .....  | 19        |
| 21. | Review .....   | 19        |
| 22. | Associated Documents .....                                       | 19        |
| 23. | Reimbursement Claim or Reconciliation Procedures.....            | 19        |
| 24. | Allowance (Salary) Sacrifice .....                               | 19        |
|     | <b>APPENDICES – Claim Forms.....</b>                             | <b>20</b> |
|     | SUSTENANCE DECLARATION FORM - Reconciliation of Advance.....     | 21        |
|     | REIMBURSEMENT OF EXPENSES - Councillors .....                    | 22        |
|     | REIMBURSEMENT OF EXPENSES – Child Care .....                     | 23        |
|     | COUNCILLOR COMMUNICATION PACKAGE .....                           | 24        |
|     | ACQUITTAL OF EXPENSES – Taxi Charge Card .....                   | 26        |
|     | REIMBURSEMENT OF EXPENSES – DIY Communication Package .....      | 27        |



## PART 1 – INTRODUCTION

### 1. Title, Commencement of the Policy

This Policy will be referred to as the Civic Office Expenses Policy; long title is “Policy for the Payment of Expenses and Provision of Facilities to the Mayor, Deputy Mayor and other Councillors”. This Policy takes effect from the date of adoption until further amended.

### 2. Purpose of the Policy

To ensure that there is accountability and transparency in the reimbursement of actual expenses incurred or to be incurred by Councillors. This Policy also ensures that the facilities provided to assist Councillors to carry out their Civic duties are reasonable.

To reimburse Councillors for expenses reasonably incurred in the performance of their duties, including expenses incurred in becoming adequately informed on subjects relevant to their Civic duties.

Further that the details and range of expenses paid and facilities provided to Councillors by the Council are clearly and specifically stated, fully transparent and acceptable to the local community.

### 3. Objectives and Coverage of the Policy

Council's Policy should provide for the payment of appropriate expenses and the provision of the necessary facilities to ensure that:

- a) The Mayor, as the first citizen of the Council's area, as the leader of the governing body of the Council and as the principal spokesperson on Council Policy is provided with a standard and range of facilities appropriate to the importance and responsibilities of the office.
- b) The Councillors of Hurstville in their roles as members of the governing body of the Council and as elected persons are reimbursed for expenses reasonably incurred in the performance of the role and are provided with a standard and range of facilities to assist in discharging the functions of Civic Office.
- c) Councillors are not out-of-pocket as a result of performing and discharging their Civic functions and duties.

### 4. Making and Adoption of the Policy

This policy is made in accordance with the requirements of Section 252-254 of the *Local Government Act 1993*, in accordance with the directions of the then Division of Local Government (DLG) Circular No 09/36 (7/10/09) and as adopted by Hurstville City Council from time to time. (S252[1]).

Within five months after the end of each financial year, Council must adopt a Policy concerning the payment of expenses and provision of facilities to the Mayor, Deputy Mayor and other Councillors, in relation to discharging their functions of Civic Office.

Substantial amendments to this policy will not take effect unless at least 28 days' public notice is given of the proposed amendments and any submission received is considered by Council. Council does not need to give notice of a proposed amendment to the Policy, if the amendment is not substantial.

The term 'not substantial' should be taken to mean minor changes to wording of the Policy or changes to monetary provisions or rates that are less than 5%. It also means minor changes to the standard of the provision of equipment and facilities.

### 5. Reporting Requirements

Section 428 of the Local Government Act requires Council to prepare and report within 5 months of the end of each financial year on certain matters regarding its

performance for that year. In addition, Section 428(4)(b) of the Act states, “*such other information as the regulations or the guidelines under section 406 may require*”.

Clause 217 of the Local Government (General) Regulations requires Council to include in its annual report the following information:

- (a) *details (including the purpose) of overseas visits undertaken during the year by councillors, council staff or other persons while representing the council (including visits sponsored by other organisations),*
  - (a1) *details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, councillors in relation to their civic functions (as paid by the council, reimbursed to the councillor or reconciled with the councillor), including separate details on the total cost of each of the following:*
    - (i) *the provision during the year of dedicated office equipment allocated to councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in councillors’ homes (including equipment and line rental costs and internet access costs but not including call costs),*
    - (ii) *telephone calls made by councillors, including calls made from mobile telephones provided by the council and from landline telephones and facsimile services installed in councillors’ homes,*
    - (iii) *the attendance of councillors at conferences and seminars,*
    - (iv) *the training of councillors and the provision of skill development for councillors,*
    - (v) *interstate visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,*
    - (vi) *overseas visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,*
    - (vii) *the expenses of any spouse, partner or other person who accompanied a councillor in the performance of his or her civic functions, being expenses payable in accordance with the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW prepared by the Director-General from time to time,*
    - (viii) *expenses involved in the provision of care for a child of, or an immediate family member of, a councillor, to allow the councillor to undertake his or her civic functions.*

## 6. Legislative Provisions

Section 252(1) and (2) of the *Local Government Act 1993* provides that a Council must adopt a Policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to the Mayor, the Deputy Mayor (if there is one) and the other Councillors and that the Policy may provide for fees payable to be reduced by an amount representing the private benefit to the Mayor or a Councillor of a facility provided by the Council to the Mayor or Councillor.

In addition, Sections 253 and 254 of the *Local Government Act 1993* also provide that before adopting a policy for the payment of expenses or provision of facilities, the Council must give at least 28 days’ public notice of the proposal and that the Council or a Council Committee all the members of which are Councillors must not close to the public that part of its meeting at which a Policy for the payment of expenses or provision of facilities is adopted or at which any proposal concerning those matters is discussed or considered.

Council must adopt a Policy of expenses and the provision of facilities within five (5) months after the end of each financial year, whether the Policy is to be amended or not.

**Notes:**

This Policy excludes annual fees paid to the Mayor and Councillors in accordance with Sections 248-251 of the Local Government Act 1993. Those fees are separately determined by Council each year in accordance with a report from the Local Government Remuneration Tribunal.

This Policy also excludes meeting fees paid to the Council's Joint Regional Planning Panel (JRPP) members as determined by Council from time to time within the parameters set by the Minister for Planning under the Environmental Planning and Assessment Act 1979.

## 7. Other Government Policy Provisions

Within 28 days after adopting a Policy or making an amendment to a Policy, Council is to forward to the Chief Executive of the Office of Local Government:

- *A copy of the Policy or amendment together with details of all submissions received*
- *A statement setting out, for each submission, the Council's response to the submission, and the reasons for the Council's response, and*
- *A copy of the notice given.*

Council must comply with all the requirements of Section 253 of the Act even if the Council proposes to adopt the same Policy as in existence.

Clause 403 of the Regulations (Payment of Expenses and Provision of facilities) states:

- A Policy under Section 252 of the Local Government Act 1993 *must not* include any provision enabling a Council –
  1. *to pay any Councillor an allowance in the nature of a general expense allowance, or*
  2. *to make a motor vehicle owned or leased by the Council available for the exclusive or primary use or disposition of a particular Councillor other than a Mayor.*

This Policy should also be consistent with the provisions of Council's Code of Conduct.

## 8. Approval Arrangements

### ***At Conferences etc***

Attendance at Conferences, seminars and workshops must be in accordance with a specific resolution of Council.

If this is not possible due to timing of notification of the event and a Council meeting, then approval should be given jointly by the Mayor and General Manager. If the Mayor requires approval to travel outside of Council meetings it should be given jointly by the Deputy Mayor and General Manager.

Should approval be granted for the Mayor and or Councillors to travel without the opportunity for such to be considered by Council, but approved by the persons abovementioned, a report is to be submitted to the next available Council Meeting advising details of the travel for information purposes.

Retrospective re-imburement of travel expenses is not allowed unless prior authorisation of the travel has been obtained.

After returning from a Conference, seminar or workshop (other than the Local Government NSW Annual Conference) a Councillor, unless accompanied by a staff member, must provide a written report to Council on the aspects of the conference, seminar or workshop's relevance to Council business and / or the local community.

### ***At Functions***

*Within the Hurstville local government area*

Attendance at functions where the Mayor and Councillors (and partners) receive an invitation to attend a civic / community function or event within the Hurstville Local Government Area (HLGA) in their official capacity as Mayor / Councillor and such is not a social event, the cost of any ticket/s (including a spouse or partner's ticket) is met by Council following authorisation by the General Manager.

Examples of the type of function/s mentioned above could include but not be limited to Australia Day Awards ceremonies, Citizenship ceremonies, civic receptions and charitable functions for charities normally supported by the Council.

*Outside the Hurstville local government area*

Attendance at functions where the Mayor or Councillors receive an invitation to *attend a civic / community function or event* outside the Hurstville LGA in their capacity as Mayor / Councillor and such is not a social event, Council will only meet the cost of any ticket/s for the Mayor or Councillor/s and not any accompanying spouse or partner ie fund raising charitable functions for charities normally supported by the Council following authorisation by the General Manager.

However, expenses for the partner of the Mayor or a Councillor, when representing the Mayor, when they are called on to *attend an official function of Council or carry out an official ceremonial duty* while accompanying the Mayor or Councillor outside the Hurstville LGA but within the State, will be met by Council. ie attending Parliament House.

*Note: The Mayor may nominate a substitute Councillor in his / her absence to attend functions within the Council area or Sydney metropolitan area on those occasions where the Mayor is unable to be in attendance. On such occasions and where the substitute is accompanied by his / her spouse or partner, the cost of the spouses / partner's attendance ticket or meal will only be met by Council as outlined above.*

**At Forums**

Attendance at Forums where the Mayor, or his / her delegate have been invited to attend, such as State or Commonwealth Government initiated 'local government' forums, which are not social in nature and are held within Australia, be approved by the Deputy Mayor and the General Manager, and that the Council meets the costs for travel, accommodation and sustenance.

**At Events**

Attendance at events where the Mayor, or his / her delegate have been invited to attend, which are not social in nature and are held within NSW including the ACT, be approved by the Deputy Mayor and the General Manager, and that the Council meets the costs for travel, accommodation and reimbursement of out-of-pocket expenses only.

## **PART 2 – PAYMENT OF EXPENSES**

### **GENERAL PROVISIONS**

#### **9. Payment of Expenses Generally**

***Allowances and Expenses***

No provision will be made for the payment of an allowance in the nature of a general expense allowance. (DLG Circular 09/36 – 7/10/09)

***Reimbursement and Reconciliation of Expenses***

This Policy only authorises payment or reimbursement of actual expenses incurred by Councillors in carrying out their civic duties. It is not appropriate or lawful to pay a general allowance unrelated to an actual expense. All claims for reimbursement of expenses incurred must be made on the approved claim form, supported by original

receipts / tax invoices and be claimed within **3 months of the expense**, but should be within the same financial year the cost incurred in. Where claims cannot be submitted within the same financial year, a Statutory Declaration must be provided outlining costs to be claimed to enable Council to make provision for an accrual for expenses incurred.

### ***Payment in Advance (Sustenance Allowance)***

Councillors may request payment in advance in anticipation of expenses to be incurred in attending conferences, seminars or training away from Sydney. Councillors may also request an advance payment for the cost of any other expense covered by this Policy. However Councillors must reconcile all expenses against the amount of the advance when they return **within 1 month of the close of the event** for which the advance was made. **In addition, no further advance allowances will be paid until the previous advance allowance has been acquitted.** (See also cl 22)

All funds not expended on official business must be reimbursed to Council **within 1 month** of the date of the Conference / event.

### ***Personal Interests***

It is considered the fundraising activities of political parties including political fundraising events, are to be personal interests. Council will not support and / or attend such activities and events.

### ***Dispute resolution***

Should a Councillor dispute the amount of a claim paid / not paid by Council or provision of facilities not available to all Councillors (excluding additional facilities available to the Mayor), the Councillor may request the General Manager to submit a report to the next available Council meeting for determination.

## **10. Establishment of Monetary Limits and Standards**

This Policy identifies and publishes monetary limits and standards applicable to the payment of various expenses to Councillors. By doing so, members of the public are aware of the expected cost of providing services to Councillors and provides openness and transparency in the provision of such services.

## **11. Spouse and Partner Expenses**

Councillors may invite their spouse or partner to accompany them on a business trip. Accommodation, travel, meals and usual daily expenses incurred by a spouse or partner will not be met by Council.

However, Council will meet the cost of ticket/s for a spouse or partner's attendance at Official Conference Dinner/s when attending the Local Government NSW Annual Conference.

## **SPECIFIC EXPENSES FOR MAYORS AND COUNCILLORS**

### **12. Attendance at Seminars and Conferences**

#### ***Who May Attend Conferences***

Councillors may be authorised to attend conferences, seminars, workshops or other functions specific to their civic duties by prior resolution of the Council.

#### ***What Conferences May Be Attended***

The conferences to which this Policy applies may include but not be limited to:

- Local Government NSW and Australian Local Government Association (ALGA) Conferences.
- Special 'one-off' conferences called or sponsored by the Local Government NSW and/or ALGA on important issues.

- Annual conferences of all the major professions in Local Government.
- Australian Sister Cities Conferences.
- Regional Organisation of Councils Conferences.
- Conferences, which further training and development of Councillors, or which relate to or impact upon the Council's functions.
- Any meetings or conferences of organisations or bodies on which a Councillor of the Council may be elected, or appointed to be, a delegate or member of a Committee or the Local Government NSW or other professional or lobby group such as Southern Sydney Regional Organisation of Councils (SSROC), Municipal Public Libraries Association (MPLA) etc.

### **Registration**

The Council will pay all normal registration costs associated with conferences and seminars which would normally include the official dinner and lunches during the conference / seminar and associated tours where they are relevant to the business and interests of the Council. Tours of a predominantly social nature will not be met by Council.

### **Categories of Payment or Reimbursement**

#### **Travel**

Travel to conferences, seminars and functions should be by the most appropriate means i.e. Council vehicle, hire or private vehicle (with fuel costs to be borne by Council), rail, air, or taxi if necessary. Travel by air will be by the most direct route and economically available fare in economy class. Economy class tickets affording Council the opportunity to change times/days of travel or cancellation with the ability to receive a credit shall be purchased. Should other means of travel be required or preferred, Council will only meet the cost up to the equivalent cost of economy class air travel as provided for above. With all travel arrangements, due consideration is to be given to the physical condition of the Councillor and any variation to these arrangements shall only occur with the approval of the Mayor and General Manager or the Deputy Mayor and General Manager where such arrangements relate to the Mayor.

#### **Travel – Hire Car / Taxi**

A hire car will only be provided, upon approval by the General Manager, when two (2) or more Councillors request one and who will be travelling together as use of taxi charge card will generally be more economical for travel to and from airports, travel on each day of the conference, seminar or training venue or inspecting sites of interest and benefit to the Council.

No more than one hire car will be approved unless there are more than four (4) Councillors attending and those Councillors will travel together and not use a taxi charge card for trips to/from airport, to/from Conference venues or inspecting sites of interest and benefit to the Council.

The hire car will be limited in size to a standard family size vehicle or a people mover if applicable and will be hired by Council from that company which provides the most economical rates at the time of hire.

#### **Private Benefit**

Councillors should not obtain more than incidental private benefit from the provision of equipment and facilities, nor any benefit from travel bonuses such as 'frequent flyer' schemes or any other such loyalty programs. However, it is acknowledged that incidental use of council equipment and facilities may occur from time to time. Such incidental private use is not subject to re-imburement to Council. (See also cl15 General Provisions)

Where more substantial use occurs Council may request payment to cover the level of that private benefit (S 252[2] of the Act).

Where substantial private benefit may be obtained from the use of facilities or equipment the Mayor (or where it involves the Mayor, the Deputy Mayor) and the General Manager will determine the amount to be reimbursed to Council having regard to industry standards and practices. Should the amount or rate be disputed the matter will be reviewed in accordance with Council's Dispute Resolution clause in this Policy. (cl 9)

### **Accommodation**

Council will meet the cost of a standard double room only accommodation in a motel or hotel appropriate to the area in which the conference or seminar is being held, including the night before the first official function or session and the last night of the conference where necessary. Accommodation will be selected by the Council, Mayor or General Manager on the basis of cost and convenience of location to the conference venue. A Councillor may choose accommodation at a different location but which is at the same cost or less.

### **Councillors Accompanied by Spouses/Partners**

Other than the cost of the official dinners for the Local Government NSW Annual Conference other costs are to be met by the Councillor.

### **Expenses (including Sustenance Allowance)**

Refunds to Council will need to be made where the actual expenses are less than the amount provided in advance. In the event that a Councillor seeks re-imburement of expenses after a Conference, Seminar or Training Session, they will be processed on completion of the appropriate claim form.

Incidental expenses (ie dry cleaning, newspapers, internet use, phone/fax costs etc) are expected to be covered from the Sustenance Allowance provided to Councillors.

In addition, the cost of meals (breakfast, lunch, dinner, morning and afternoon teas, etc) not included in the registration fees for conferences or similar functions may be reimbursed (if an advance is not provided) up to a daily limit as follows:

Attendance at conferences, seminars or training including travel:

- Full day \$170.00
- Half day 50% of full day

That the maximum limits on sustenance expenses outlined above be adjusted to the CPI (all groups) for Sydney 1<sup>st</sup> July based on the 12 month period ending March each year.

*Note: March 2015, CPI increase was 1.3% (and is as amended above)*

*Note; In calculating allowances for Conferences, consideration will be given to the times of departure to/from a Conference by plane as to allow 1 hour travel time to airport plus the airlines check-in time in addition to the departure time of the flight to determine whether a full day or half day allowance will be provided.*

For Sydney based conferences, seminars and training sessions, payment of an allowance will be on a case by case basis and are based on re-imburement of actual expenses rather than an advance allowance. Sydney based conferences are those conferences held within the Local Government areas of Councils defined in the [Regional Development Regulations 2004](#).

With regard to the provision of receipts / tax invoices for reconciliation purposes, it is recognised at times it is not possible to obtain specific receipts for all expenditure items and provided it can be demonstrated that the expenditure was incurred and is not general in nature, original receipts / tax invoices may not be required and Councillors would be required to certify that the expenditure was for the purpose intended.

### ***Sister City Relationships***

In respect of Official visits to International Sister Cities by Councillors, and staff authorised by the General Manager, the following guidelines apply:

1. Council consider, prior to its approval, each proposed Sister City delegation taking into account the particular circumstances of each visit and the benefit to Council, subject to the following:
  - i) a delegation of up to four (4) representatives being authorised to form the delegation at the participant's cost, as outlined below; other Councillors, staff and when appropriate, members of the community may participate in the visit, at their own cost.
  - ii) The Mayor or his/her nominee represent Council
  - iii) The General Manager or his/her nominee represent Council
  - iv) Two (2) other representatives of Council be authorised to represent Council as part of the delegation. These representatives are to be determined by Council taking into account the particular circumstances of the visit. These representatives may be either a member of staff as considered appropriate and recommended by the General Manager and having regard to the nature and purpose of the visit, Councillors or a member of the community to be determined by Council on each occasion or any combination thereof.
3. That a daily allowance not be paid.

In regard to Council's Friendly City relationship with Tamworth Regional Council, the expense of participation in visits will be treated in the same manner as attending a Conference with attendance being subject to prior approval by Council.

### **13. Training and Educational Expenses**

Council's training budget for Councillors supports and encourages an active learning process and skills development specific to their Civic responsibilities. The full cost of identified training and education will be met by Council.

This commitment includes any training course registration fee for software packages to be utilised in association with Council.

### **14. Local Travel Arrangements and Expenses**

Council provides motor vehicle transportation (when available) for travel to conferences, seminars, and the like and when on official Council business.

#### **(i) Taxi Charge Card**

A taxi charge card is provided to each Councillor for use when on official Council business as authorised by the Council, the Mayor or when performing the role of Councillor. A limit of \$1100pa incl GST is provided however the limit may be increased on a case-by-case basis for extenuating circumstances following a report to an Ordinary meeting of Council.

Examples of permitted use of the charge card include:

- attending a function on behalf of the Mayor or representing Council on official business
- travelling to / from a formal meeting of Council
- travelling directly from home to attend a Council function / activity and return
- travelling to / from an airport or directly to an authorised conference, seminar, training session etc.
- travelling to / from other approved functions
- travelling to / from conference hotel and conference venue

Council will only be responsible for those travel costs incurred which are associated with the business of the Council. Councillors will be required to meet those costs related to travel other than on Council business, such costs to be paid by Councillors



by deduction from their allowance in accordance with Council's Credit Card & Reimbursement Administration Policy.

No tipping is allowed from Council funds.

It should be noted that Council staff do not verify any trips taken by Councillors. Councillors must ensure they use the taxi charge card in accordance with Council Policy and submit an acquittal form indicating the purpose, event and/or function attended for the trips outlined on the taxi charge card invoice when issued. The taxi charge card invoice will be issued in the Councillors name and will not be paid until the acquittal form is received. Notwithstanding the above, acquittal forms must be submitted within 1 month of receipt of the Taxi Charge Card statement.

In relation to use of Council's vehicles, Councillors on Council business are responsible for any traffic or parking fines incurred.

*[Refer Council's Credit Card & Reimbursement Policy (incorporates Corporate Credit Card, fuel card and CabCharge [taxi charge] card) - adopted 25 May 2011 – CCL076-11]*

#### **(ii) Private Motor Vehicle**

Should a Council vehicle or other transportation means outlined above not be available to a Councillor for travel to / from official business, Council will reimburse the Councillor for use of their personal vehicle for intrastate usage only in accordance with the rates outlined in the Local Government State Award in force at the time. Prior notification of use of a personal vehicle must be submitted to the Mayor or General Manager. The total amount of reimbursement shall not exceed the cost of the most economical means of travel. Councillors must not use their private motor vehicle for interstate transport as other means of travel would be more cost effective and appropriate.

#### ***Travel outside the Council area, including Interstate and Overseas Travel***

##### **(iii) Interstate Travel**

The prior approval of the Council is required for interstate travel on Council business. The application for approval should include full details of the travel, including itinerary, costs and reasons for the travel.

##### **(iv) Overseas Travel**

Overseas travel must be approved by the Council prior to a Councillor undertaking a trip. Travel must be approved on an individual trip basis. Council will not allow the retrospective reimbursement of overseas travel expenses unless prior authorisation of the travel has been obtained. Travel proposals shall be included in the Council business papers and not via a Mayoral Minute and must include full details of the travel itinerary, cost, reasons for the travel and benefit to Council.

After returning from overseas, Councillors (unless accompanied by a Council staff member) should provide a detailed report to Council on the aspects of the trip relevant to Council business and/or the local community.

Should the Mayor or other Councillor accept an invitation to travel overseas, details of travel must be included in the Council's Annual Report as required by the Local Government Act and Regulations. *Refer Clause 5 – Reporting Requirements and Disclosure of Interest Return (s449) if applicable.*

##### **(v) Electronic Communication Packages**

Council provides an electronic communication package encompassing two options for the provision of essential electronic communication devices to enable Councillors to undertake their public duties. The communication package has been developed to provide for the different needs and requirements of Councillors and the ability of Council staff to provide appropriate support at an economical and efficient cost to the Council.

The electronic communication package has two options as detailed in the appendix. The costs / expenditure limits are shown and are based on prices Council would pay for the items mentioned.

*Option 1 (provided and fully supported by Council)*

Council provides the equipment (in a locked down standard operating environment [SOE]), consumables and IT support.

*Option 2 (devices selected by Councillors as per specifications and allowances provided, but not supported by Council IT staff)*

This option provides the opportunity for Councillors to select devices suited to their working environment subject to specifications provided by Council. Councillors may choose to select any device/s that meets the minimum specifications required by Council but Councillors will only be reimbursed up-to the limits provided under this Policy.

**Note:** *Equipment purchased by Councillors under this option and reimbursed by Council is treated as Council owned equipment and must be surrendered to Council unless purchased in accordance with this Policy.*

Councillors that select option 2 will not be financially disadvantaged than those Councillors selecting option 1 nor will they receive an advantage.

The Councillor/s must submit on the appropriate claim form and **on a monthly basis** to Council the first page of their bill/s (or original invoices for purchase of goods) to substantiate the reimbursement of expenses and for Council related calls/data charges up to the annual allowance provided by Council. All reimbursements must be made within the same financial year they are incurred.

*Switching Options during Council term*

It would be desirable for Councillors to choose an option for the duration of a Council term, however given that individual Councillor needs may change throughout the term, Councillors may opt out of one option into another **but only when the two (2) year replacement cycle is being rolled out.**

With Councillors switching from option 1 to option 2 there would be no financial implications as devices supplied by Council would be returned and deployed elsewhere through the Council. However for Councillors switching from option 2 to option 1 there would need to be a financial return to Council, based on a pro-rata basis, for any capital items purchased by the Councillor and reimbursed by Council. Should a Councillor have entered into a mobile phone plan or extended warranty for any devices these would still need to be met by the individual Councillor at their cost.

*Capital costs*

The policy provides for the purchase of capital items upon election as a Councillor and a replacement at the end of 2 years (commencement of 3<sup>rd</sup> term), if requested, for a mobile phone and a mobile computer (laptop / notepad & tablet) in line with devices deployed to staff to suit Council's business needs. A multifunctional device (MFD) capable of printing, scanning, photocopying and being a facsimile is allowed at the commencement of the Council term with no replacement.

*Connection of ADSL at Councillors Residence*

As per both options abovementioned Council will pay for an internet connection at the Councillor's residence for use in electronic communication and research for Council related business only in association with the provision by Council of a multi-purpose device and computer if required. Council will meet the cost of local calls from this telephone line as outlined in the appendix, interstate and international calls will be barred.

Should it be more economically viable for Council to use an existing internet equipped telephone line at a Councillor's residence, Council will reimburse the Councillor up to the cost of their plan but no more than the cost of data downloads available to other Councillors.

Should a Councillor require the relocation of the ADSL telephone line during their term, Council will meet the cost of relocation but only on one occasion per Council term.

#### *Code of Conduct issues*

Councillors choosing option 2 would still be required to comply with Council Policies and Codes in the use of equipment they have purchased and have been reimbursed by Council. For instance the mobile phone shall not be used for electioneering purposes and use of a mobile computer using Council ADSL or Broadband device would need to comply with Council's Electronic Communication Administration Policy.

#### *Overseas call / data costs*

Councillors when visiting overseas are taken to be on leave from Council and accordingly there would be no reason to undertake business on these occasions.

Should a Councillor require access to call / data services whilst overseas they must inform the General Manager for this feature to be activated.

In this regard, Councillors should be mindful of the cost of making / receiving phone calls and data messages from overseas and access to email and the Councillor's Portal should preferably be through any internet shop / service rather than a Council provided device. If data is activated Councillors must liaise with MIS in order for an appropriate overseas data package to be arranged to minimize data costs. This cost will be attributed to the Councillor's allowance provided by Council.

#### *Expenditure over allowance limits*

Where the actual cost of telephone expenses (land line and mobile phone including any data charges) exceeds the annual allowance provided, the excess cost will be deducted from the Councillors Monthly Fees. For Councillors that select option 2 they will only be reimbursed up-to the allowance provided and no further reimbursements will be paid by Council.

#### *Allowances for Mayor of the day*

Subject to the option chosen by the Mayor an additional allowance will be provided. Council will meet or reimburse the cost of Council-related calls from either the telephone line or mobile phone up-to an additional \$2,640 (incl GST) per annum in recognition of the increased workload and demand from constituents to have contact with the Mayor.

#### *Allowances during last year of Council's term*

The mobile phone and landline (including data) allowances payable by Council under this Policy will only be paid / provided on a pro-rata basis for the months of July, August and September during the last year of Council's term.

#### *Ownership of capital items*

As Council reimburses Councillors for the cost of capital items under Option 2 the item/s are the property of Council.

### **Replacement of item/s provided under Communication Package – SOE – Option 1**

Should an item be required to be replaced over the term of Council because it was lost or accidentally damaged beyond repair, Council will replace the item on a like for like basis. Prior to the item being replaced a statement outlining the facts of the matter must be submitted to MIS and if stolen a Police report must accompany the statement. The appropriate documents must be submitted (along with the damaged item to MIS, if applicable), prior to MIS arranging for a replacement item. Should an item be required to be replaced more than once during a Councillor's term of office, excluding warranty issues, the Councillor must seek the Mayor of the Day's approval for the item to be replaced and may be requested to contribute towards the cost of replacement. Councillors, are being provided with a "tool of trade" to undertake their civic duties and are therefore responsible for the safe custody and care of items provided to them.

### **Replacement of item/s provided under Communication Package – DIY – Option 2**

Should an item be required to be replaced over the term of the Council because it was lost or accidentally damaged beyond repair, this will need to be arranged by the Councillor under their insurance cover or the cost met from their own funds as no additional allowance or reimbursement will be provided by Council. Council will meet the cost of the insurance cover premium but only for the period whilst the Councillor is elected to Council. MIS or other Council officer is not to be involved in arranging for the item to be replaced as this is the sole responsibility of the Councillor concerned and Council will not provide a temporary replacement item whilst the original item is being replaced.

### **Repairs to item/s provided under Communication Package – SOE – Option 1**

Should an item be required to be repaired over the term of the Council because it was accidentally damaged or becomes faulty under warranty, Council will arrange to have the item repaired at no cost to the Councillor. During the intervening period Council will arrange to have a replacement item made available. Should an item be required to be repaired more than once during a Councillor's term of office, excluding warranty issues, the Councillor must seek the Mayor of the Day's approval and may be requested to contribute towards the cost of repairs. Councillors, are being provided with a "tool of trade" to undertake their civic duties and are therefore responsible for the safe custody and care of items provided to them.

### **Repairs to item/s provided under Communication Package – DIY – Option 2**

Should an item be required to be repaired over the term of the Council because it was accidentally damaged or becomes faulty under warranty, the Councillor will need to have it repaired under their insurance cover, warranty or the cost met from their own funds. Council will meet the cost of the insurance cover premium but only for the period whilst the Councillor is elected to Council. MIS or other Council officer is not to be involved in arranging for the item to be repaired as this is the sole responsibility of the Councillor concerned and Council will not provide a temporary replacement item whilst the original item is being repaired.

Note: See clause 18 for requirements in returning Council equipment following a general election.

### **(vi) Care and Other Related Expenses**

Councillors will be reimbursed for reasonable child (up to 16 years of age) / dependent care costs (including people with disabilities and the elderly) incurred in attending Council meetings, Committee meetings, workshops, briefing sessions, other meetings or approved functions / events relating to Council's operations up to \$3,300 per annum (incl. GST) per Councillor.

Reasonable costs includes carer expenses paid to providers other than immediate family, spouse or partner up to 1 hour before and after such meetings (based on

advertised commencement time) subject to the prescribed form being completed and the production of appropriate documentation.

Should a Councillor be entitled to a Child Care Benefit or rebate from Centrelink / Medicare for childcare, the Councillor must inform Council for an appropriate adjustment to be made to any allowance provided by Council, if claimed.

**(vii) Insurance Expenses and Obligations**

Councillors while on Council business will receive the benefit of Insurance Cover for:

- Personal Accident
- Councillors & Officers Liability
- Public Liability
- Professional Indemnity
- Travel Insurance for Council approved travel.

**(viii) Legal Expenses and Obligations**

A Council, by resolution, may reimburse the reasonable legal expenses of:

- A Councillor defending an action arising from the performance in good faith of a function under the Local Government Act 1993 (Section 731 refers), or
- A Councillor defending an action in defamation provided that the statements complained of were made in good faith in the course of exercising a function under the Act, or
- A Councillor for proceedings (inquiry, investigation or hearing) before the Local Government Pecuniary Interest and Disciplinary Tribunal or another investigative body as may be outlined in the DLG Guidelines provided the subject of the proceedings arises from the performance in good faith of a function under the Act and the Tribunal or investigative body makes a finding substantially favourable to the Councillor.

The Council may at its discretion, set a limit to the total amount of reimbursement it is prepared to approve in respect of any enquiry, investigation, hearing or proceedings being taken against a Councillor. Such limit which should be determined at the time and on a case-by-case basis. Should re-imburement be approved it will only be provided within the current financial year or a period of three months, where final costs are determined, whichever is the latter.

Having regard to this Policy and DLG Circular 09-36 and associated Guidelines, Council will not provide legal assistance in respect of legal proceedings initiated by the Mayor and / or Councillors in any circumstances or for seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation nor for legal proceedings that do not involve a Councillor performing their role as a Councillor.

## **PART 3 – PROVISION OF FACILITIES**

### **15. GENERAL PROVISIONS**

It is acknowledged that some minor private benefit may be derived by Members from the equipment and facilities provided by the Council. However, Council is of the opinion that such benefit is not significant and therefore considers the fees payable to the Mayor and Councillors under the Act should not be reduced, nor is it necessary for Councillors to reimburse Council for this incidental use.

Unless otherwise provided for in this Policy, if a Councillor does obtain a private benefit for the use of a facility provided by Council the Councillor shall be invoiced for the amount of the private benefit with repayment to be made within 30 days. The value of the private benefit shall be determined by Council in non-confidential session of a Council meeting. (See also cl12 Private Benefit).

Equipment, facilities and services provided under this Policy shall not be used to produce election material or for political purposes, nor for any improper activity that would breach any Act.

## 16. Provision of Equipment and Facilities for Councillors

All Councillors are to receive the benefit of the following:

### **Stationery**

Use of Councillor letterhead, envelopes, business cards, provision of name badges and copies of relevant books and legislation if required. Councillors should use the Internet rather than request the provision of hard copy books or legislation.

The use of Council business cards for electioneering purposes is considered to be a private interest and not appropriate.

Council will provide an e-letterhead template for each individual Councillor to minimise stationery expense.

### **Secretarial Assistance**

Typing of official Councillor correspondence on the basis of submission of a draft and that it is confined to letters of reply to constituents concerning Council matters and reports for Council's consideration. This service is to be provided by the Mayor and Councillors' Executive Assistant, however with the introduction of Councillors' eLetterhead it is expected that Councillors will respond to constituents themselves. Further, copies of all official Council correspondence issued by Councillors is to be submitted to Council in accordance with the requirements outlined in Section 10 of the Councillors' Handbook.

**Note:** *Correspondence / email issued by the Councillor in the performance of their official duties is taken to be an official record of the Council.*

### **Computers / Email**

Provision of an appropriate computer on a two yearly replacement cycle as outlined in the Electronic Communications Package including council related software, all of which **shall remain the property of the Council**, unless purchased as outlined in this Policy.

All Councillors to be provided with separate email addresses for civic duties, with Council to meet all costs associated with maintaining same.

### **Council Chambers**

*Provision of a SOE computer and monitor for use at meetings of council.*

### **Multi-purpose device**

Council will provide a multi-purpose device as provided for in the Electronic Communications Package that includes features for a facsimile / telephone answering machine / printer / scanner and provision of consumables, **such to remain the property of the Council**, unless purchased as outlined in this Policy.

### **Meals and Refreshments**

Provision of meals and refreshments associated with Council, Committee, Councillor Workshops and Task Group / Special Committee / Working Party meetings and other functions arranged by Council. A refreshment bar is also available in the Councillors' Suite for consumption of refreshments on-site.

### **Meeting Rooms**

Provision of appropriate meeting facilities in the Civic Centre and the Councillors' Suite and offices for meetings with constituents. Meeting Rooms should be booked through the Mayor's and Councillors' Executive Assistant.

### ***Councillors' Offices***

Provision of a dedicated office within the Councillors' Suite on the first floor and one on the Ground Floor with an entrance off MacMahon St for meetings with constituents complete with appropriate office furniture and equipment (including a photocopier, landline and internet) to assist Councillors in the conduct of their duties of Civic office. Access will also be provided for Councillors to a refreshment cabinet for consumption of refreshments on-site.

### ***Parking Facilities***

Provision of limited parking in the basement car park of the Civic Centre when on official Council business between the hours of 8:30 am and 4:30 pm, Monday to Friday. Full use of available spaces at other times, that is, evenings and weekends for official or non-official business use.

Councillors will be provided with a security device for access to the parking facilities at the Civic Centre and this device remains the property of Council and like other equipment, must be returned to Council upon the Councillor ceasing to hold office.

### ***Access to Council Offices***

Councillors will be provided with an access card that enables 24 hours, seven days a week entry to the Civic Centre basement, Councillors' Suite and Councillors' offices.

The access cards remain the property of Council and must be returned to Council upon the Councillor ceasing to hold office.

Councillors will also be provided with access to the Civic Centre's alarm system to complement their 24 hour access to nominated areas. Use of the alarm system should be in accordance with the user instructions issued to Councillors.

### ***Taxi Charge Card***

Councillors will be provided with a taxi charge card for use on official Council business only in accordance with the terms of use outlined in clause 14.

## **17. Provision of Additional Equipment and Facilities for Mayor**

In addition to equipment and facilities provided to the Councillors, the Mayor is to receive the additional benefit of:

### ***Secretarial Services***

Administrative and personal secretarial support.

### ***Administrative Support***

Assistance with functions, organisations, meetings, and the like by the Mayor's and Councillors' Executive Assistant and other appropriate staff.

### ***Mayoral Office***

Provision of:

- a fully furnished office within the Civic Centre with appropriate office furniture to assist the Mayor in the conduct of his / her duties of office.
- appropriate office equipment such as a computer, facsimile machine, photocopier, telephone etc including a television and associated equipment.
- a refreshment cabinet for consumption of refreshments on-site.

### ***Stationery***

Mayoral letterhead, envelopes, Christmas cards and other stationery generally for official purposes.

Council will provide an e-letterhead template for the Mayor to minimise stationery expense.

### **Parking**

A dedicated car parking space within Council's Civic Centre.

### **Corporate Credit Card**

The provision of a Corporate Credit card for use on official Council business within the limits provided by Council from time to time. (Currently \$5,000 per month. Refer Credit Card & Reimbursement Policy - adopted 25 May 2011 – CCL076-11) if requested.

### **Mayoral Robes and Chains of Office**

Mayoral robes, chains and other insignia of office will be provided for the Mayor to wear at official Civic functions / ceremonial occasions, as appropriate.

### **Presentation Gifts**

Gifts of a nominal value purchased by Council, such as ties, scarves, books etc., will be available for presentation by the Mayor to visiting dignitaries as a gesture of good will.

### **Mayor's Community Fund**

Determination of charitable donations from the Mayor's Community Fund, with donations to be managed in accordance with Council's Mayor's Community Fund Administration Policy in this regard. The amount provided for the fund is determined by Council on an annual basis when the Operating Plan and budget is being adopted and limited to \$20,000 per financial year.

*Note: The fund was established on the basis of the Mayor of the Day not being provided with a Mayoral vehicle.(CCL506-12 - 12 December 2012)*

## **PART 4 – OTHER MATTERS**

### **18. Acquisition and Returning of Equipment and Facilities by Councillors**

Upon ceasing to be a Councillor, either by resignation, retirement or not being re-elected, a former Councillor shall be permitted to purchase the equipment provided by Council under this Policy on the basis of a purchase price of the item's current written down value according to accounting standards for equipment purchased under the DIY or SOE Package or Council's accounting records or payout figure if such equipment is leased.

In addition, in the event of Council disposing of the computer and associated equipment installed in their residence during his / her term of office the Councillor will be offered the opportunity to purchase such from the Council as per the requirements above.

The return of equipment may also be requested by Council should a Councillor take extended leave of absence.

Equipment and facilities need to be returned to Council whether it was provided under option 1 or 2 of the Communication Package unless purchased as outlined above.

Equipment, if not purchased, must be returned to Council within 14 days of the day of the general election, upon resignation or replacement.

### **19. Status of the Policy**



This Policy, once adopted, is to remain in force until it is reviewed (refer clause 21) by the Council in accordance with the provisions of Sections 252, 253 and 254 of the Local Government Act 1993, or beforehand.

## 20. Code of Conduct

Code of Conduct provisions relevant to this Policy are:

***Use of council resources – clause 7*** (please refer to Code of Conduct for individual provisions)

## 21. Review

This Policy will be reviewed on an annual basis in accordance with the provisions of Section 252 (1) of the Local Government Act 1993.

Amendments to the Policy will be carried out in accordance with the provisions of Section 253 of the Local Government Act 1993.

## 22. Associated Documents

The following publications, Council Policies and Administration Policies have been referenced in writing and should be read in conjunction with this Policy:

- DLG Circular 09-36 – Release of revised Councillor Expenses and Facilities Guidelines
- DLG Circular 12/19 – September 2012 Local Government Elections – caretaker provisions
- DLG Circular 12/20 – Use of Council Resources and Electoral Material (Councillors' Handbook 2012).
- DLG Circular 05/08 (9/3/05) – Legal Assistance for Councillors and Council Employees. – S731 LGA (Councillors' Handbook 2012).
- Electronic Communication Administration Policy (Authorised 7 October 2011) (Councillors Portal – Policies/Codes/Circulars)
- Mobile Telephones Use Administration Policy (Authorised 9 December 2013) (Councillors Portal – Policies/Codes/Circulars)
- Council's Credit Card & Reimbursement Policy – Authorised 25 May 2011 (Council's website)
- Councillors car removed CCL180-13, 12 June 2013
- Council's Code of Conduct – CM 6/3/13 (CCL016-13).
- ICAC Publication – "No Excuse for Misuse" November 2002 (-ICAC website).

*The abovementioned documents are included in the 2012 edition of the Councillors' Handbook, the Councillors' Portal, agency websites or through Council Meeting reports.*

## 23. Reimbursement Claim or Reconciliation Procedures

All claims for reimbursement or reconciliation of any advance should be referred to the Manager Corporate Governance on the relevant Claim Form and within the prescribed time frames and accompanied by supporting documents, original receipts / tax invoices as appropriate (refer Part 2 clause 9 of this Policy).

The balance of any unspent advance should accompany the reconciliation claim form in the form of cash or a cheque made payable to Hurstville City Council. Alternatively, a Councillor may provide an authority to have the balance of any unspent advance deducted from their next monthly Councillor Fees.

## 24. Allowance (Salary) Sacrifice

In accordance with the Australian Taxation Office Interpretative decision 2007/205, Council has determined that Councillors may forego all or part of their annual allowance (payable in accordance with S248 & 249 of the Local Government Act) and meeting allowances for the Joint Regional Planning Panel, in exchange for Council making contributions to a complying superannuation fund on their behalf.

Councillors should seek their own financial advice on the impact upon their personal financial and taxation benefits before nominating a deduction from their allowance/s into their nominated superannuation fund.

No other allowance (salary) sacrifice benefits are available to Councillors.

## **APPENDICES – Claim Forms**

Claim Forms:

- Sustenance Declaration Form - Reconciliation of Advance
- Reimbursement of Expenses (Carer, etc)
- Reimbursement of Expenses (Councillors)
- Councillor Communication Package
- Taxi Charge Card Acquittal form
- Reimbursement of Expenses - DIY Communication Package

**Note:** The above documents are included in this Policy and on the Councillors' Intranet.



**SUSTENANCE DECLARATION FORM - Reconciliation of Advance**

**Name of Claimant** ..... **Councillor** ..... **Conference / Event:** .....

| Day   | Details of Expense: i.e. meals | Date Incurred | Council Meeting Date and Report No.                           | Total Amount \$ |
|---|--------------------------------|---------------|---|-----------------|
| 1   |                                |               |   |                 |
| 2   |                                |               |   |                 |
| 3   |                                |               |   |                 |
| 4   |                                |               |   |                 |
| 5   |                                |               |   |                 |
| * If additional lines are required, please use another form.<br>* It is recognised that receipts may not be provided in all cases. If it can be demonstrated that expenditure was incurred and it is not general in nature, then it is acceptable for Councillors to certify that the expenditure was for the purpose intended. Original receipts must be attached where available. |                                |               |   |                 |
|   |                                |               | <b>Sub-Total:</b>   |                 |
|   |                                |               | <b>Allowance Provided:</b>                                    |                 |
|   |                                |               | <b>(\$170.00 full day; \$50% per half day, as per policy)</b> |                 |
|   |                                |               | <b>Balance Owed to Council:</b>                               |                 |

I hereby certify that the expenses outlined above were incurred by me for the purpose provided whilst carrying out Council business as approved above.

Please find enclosed / deduct from my next monthly allowance, the amount of \$..... being the balance of monies remaining from the advance provided to me to attend the conference as approved above.

.....  
Signature of Claimant

.....  
Date

**To: Chief Financial Officer**

Please bank the amount of \$ ..... being reimbursement of the Sustenance Allowance provided to Councillor ..... not expended at the abovementioned conference.

Please deduct the amount of \$..... being the balance of the Sustenance Allowance advanced to Councillor ..... not expended at the abovementioned conference.

.....  
Manager Corporate Governance / Director Administration

.....  
Date



## REIMBURSEMENT OF EXPENSES - Councillors

**Name of Claimant** Councillor \_\_\_\_\_

| Details of Expense | Vote No. | Date Incurred | Paid Yes/No | Receipt Attached Yes/No | Council Meeting Approval and Report No. | Sub-Amount | GST | Total Amount |  |
|--------------------|----------|---------------|-------------|-------------------------|---|------------|-----|--------------|--|
|                    |          |               |             |                         |   |            |     |              |  |
|                    |          |               |             |                         |   |            |     |              |  |
|                    |          |               |             |                         |   |            |     |              |  |
|                    |          |               |             |                         |   |            |     |              |  |
|                    |          |               |             |                         |   |            |     |              |  |
| <b>TOTALS:</b>     |          |               |             |                         |   |            |     |              |  |

Please reimburse me the total amount of \$ ..... for the above expenses incurred whilst carrying out Council business.

**Note:** It is recognised that receipts may not be provided in all cases. If it can be demonstrated that expenditure was incurred and it is not general in nature, then it is acceptable for Councillors to certify that the expenditure was for the purpose intended. Original receipts must be attached where available. Reimbursements must be made in the same financial year as the cost was incurred.

I hereby certify that the expenses outlined above were incurred by me for the purpose provided whilst carrying out Council business.

.....  
Signature of Claimant

.....  
Date

**To:** **Chief Financial Officer**

Please reimburse Councillor..... (Claimant) the total amount of \$..... and charge to the vote number/s abovementioned

.....  
Manager Corporate Governance / Director Administration

.....  
Date



### REIMBURSEMENT OF EXPENSES – Child Care

Name of Claimant: Councillor .....

In accordance with Council's Policy for the Payment of Expenses and Provision of Facilities to the Mayor, Deputy Mayor and Councillors, I hereby submit the following claim (to be claimed in the same financial year as the cost was incurred):

| Date | Meeting Attended | From / To<br>(eg. 6.00 pm – 10.00 pm) | Total<br>Hours | Amount<br>Paid \$<br>Incl GST | Receipt Attached<br>Yes / No |
|------|------------------|---------------------------------------|----------------|-------------------------------|------------------------------|
|      |                  |                                       |                |                               |                              |
|      |                  |                                       |                |                               |                              |
|      |                  |                                       |                |                               |                              |
|      |                  |                                       |                |                               |                              |
|      |                  |                                       |                |                               |                              |

I hereby certify that I have not received any Childcare benefit from Centrelink that would affect the reimbursement of this expense.

Please reimburse me the total amount of \$ ..... for the above expenses incurred whilst carrying out Council business.

.....  
Signature of Claimant

.....  
Date

**To: Chief Financial Officer**

Please reimburse Councillor .....(claimant) the total amount of \$..... and charge to account 1601.64608.

.....  
Manager Corporate Governance / Director Administration

.....  
Date

| Current Councillor Options       |  | Replacement | Expenditure Limit (Upfront) | Expenditure Limit (Ongoing)   | Proposed Councillor SOE Option A | Proposed Councillor DIY Option B  |
|----------------------------------|--|-------------|-----------------------------|-------------------------------|----------------------------------|---|
| Mobile Communications Package    | Mobile Phone                                     | 2 years     | \$900                       | n/a                           | Apple iPhone                     | Any Android v2.2x or newer<br>Any iPhone iOS v5.x or newer<br>Any Windows Phone v7.x or newer |
|                                  | Telecommunications Allowance - (Call Charges)    |             | n/a                         | \$200/mth (Note 1)            |                                  | carrier of choice i.e. Optus, Telstra, etc  |
|                                  | Telecommunication Allowance - (Data plan)        |             | n/a                         | \$42/mth (Note 2)             |                                  | carrier of choice i.e. Optus, Telstra, etc  |
|                                  | Tablet   | 2 years     | \$1200                      | n/a                           | Apple iPad (Mobile Data/WiFi)    | Apple iPad 2 or Slate Tablet equivalent (Samsung / Motion Computing / Fujitsu)                |
|                                  | Tablet Telecommunication Allowance - (Data plan) |             | n/a                         | \$42/mth                      |                                  | carrier of choice i.e. Optus, Telstra, etc  |
|                                  | PSTN Line for fax (and ADSL if required)         | n/a         | n/a                         | \$40/mth Line rental (Note 3) | Telstra                          | carrier of choice i.e. Optus, Telstra, etc (Local calls only)                                 |
|                                  | <b>Total upfront Expenditure</b>                 |             | \$2,100                     |                               |                                  |   |
| <b>Total/annum</b>               |  |             | \$3,888                     |                               |                                  |   |
| <b>Total package cost Year 1</b> |  |             | \$5,988                     |                               |                                  |   |

AND

AND

|                                  |                                  |         |         |                   |   |  |
|----------------------------------|----------------------------------|---------|---------|-------------------|---|--|
| Mobile - Office Package          | Mobile Internet                  |         | \$300   | \$90/mth (Note 4) | Telecommunication provider wifi plan                        | pre-pay or monthly paid with carrier of your choice                                |
|                                  | Laptop                           | 2 years | \$2,600 |                   | Council SOE (Laptop), Includes Windows 8 locked down system | Laptop: (Minimum) Win7, Dual Core CPU, 4GB RAM, 500GB HDD, and 2yr Onsite Warranty |
|                                  | Additional Software              |         | \$500   |                   | MS Office 2010 std<br>Adobe Reader<br>Adobe Flash Player    | MS Office 2010 std<br>Adobe Reader<br>Adobe Flash Player                           |
|                                  | Printer/fax/copier               | 4 years | \$500   |                   | HP Colour Laser Multifunction                               | Multifunction device - capable of faxing, printing, copying                        |
|                                  | Consumables Allowance            |         |         | \$250/annum       | Paper, Toner, etc...  | Paper, Toner, etc...   |
|                                  | <b>Total upfront Expenditure</b> |         | \$3,900 |                   |   |  |
| <b>Total/annum</b>               |                                  |         | \$1,330 |                   |   |  |
| <b>Total package cost Year 1</b> |                                  |         | \$5,230 |                   |   |  |

OR

OR

|                                  |                                  |         |            |             |   |   |
|----------------------------------|----------------------------------|---------|------------|-------------|---|---|
| Home - Office Package            | Fixed ADSL Internet              |         | n/a        | \$90/mth    | \$90/mth "all you can eat" plan including modem   | E19/0569/AS-02-25/PR001<br>monthly paid with carrier of your choice, unlimited data usage plan suggested modem must be included |
|                                  | Desktop PC (inc Monitor)         | 2 years | \$1,300    |             | Council SOEDesktop PC w/ 22" LCD Monitor include (Minimum) Windows 7 2yr Onsite Warranty (locked down system) | Desktop plus monitor: (Minimum) OS Win7, 4GB RAM, 500GB HDD, and 2yr Onsite Warranty  |
|                                  | Additional Software              |         | \$500      |             | MS Office 2010 std<br>Adobe Reader<br>Adobe Flash Player  | MS Office 2010 std<br>Adobe Reader<br>Adobe Flash Player  |
|                                  | Printer/fax/copier               | 4 years | \$500      |             | HP Colour Laser Multifunction   | Colour Multifunction device - capable of faxing, printing , copying   |
|                                  | Consumables Allowance            |         |            | \$250/annum | Paper, Toner, etc...  | Paper, Toner, etc...  |
|                                  | <b>Total upfront Expenditure</b> |         | \$2300     |             |   |   |
| <b>Total/annum</b>               |                                  |         | \$1,330.00 |             |   |   |
| <b>Total package cost Year 1</b> |                                  |         | \$3,630    |             |   |   |

**NOTE:** Councillors may select either Telecommunications Package, but must choose between the Mobile - Office Package A (either SOE or DIY) and Home - Office Package B (either SOE or DIY).

Note 1: Based on current Councillor Telecommunications Allowance \$2400p.a.

Note 2 : Based on current Councillor Telecommunication Allowance for mobile data \$504p.a.

Note 3: Based on Current Telstra rental charges. Landline call allowance of \$240p.a + GST

Note 4 : Based on current offering by Telstra for ultimate Wifi Package

Note 5 : Breakdown of the Councillor Telecommunication Allowance is:- Mobile Phones (2400) + GST + Landline (240) + GST + Data Plan (42x12 Months Inc GST)



**ACQUITTAL OF EXPENSES – Taxi Charge Card**

Name of Claimant: Councillor .....

In accordance with Council’s Civic Office Expenses Policy, I hereby submit the following acquittal of taxi charge card usage for the month of .....

| Date | Event / Function Attended(ie LGMA conference / Australia Day Awards etc) | Purpose (Meeting, Fund Raising Event, Conference travel etc) | From / To (ie Hurstville to Home) | \$ Incl GST | Official (O) or Private (P) |
|------|--|--|-----------------------------------|-------------|-----------------------------|
|      |  |  |                                   |             |                             |
|      |  |  |                                   |             |                             |
|      |  |  |                                   |             |                             |
|      |  |  |                                   |             |                             |
|      |  |  |                                   |             |                             |
|      |  |  |                                   |             |                             |

I hereby certify that all trips outlined above as official and on the attached invoice have been solely for the purpose of undertaking Council business as authorised under the Council’s Civic Office Expenses Policy and I have obtained no personal benefit from this use.

For any trips that were of a private nature I hereby authorise Council to deduct the amount from my next monthly Councillor allowance.

.....  
Name (Please Print)                                  Signature                                  Date:

**To Finance**

The above details have been checked and invoice is approved for payment

.....  
Date: & Certified – EA to Mayor

.....  
Manager Corporate Governance

.....  
Date







**Hurstville City Council**

# **Code of Meeting Practice**

Released: 15 Sept 2015

# Document Status and Version Control

## Ownership and Version Control

|                           |  |
|---------------------------|--|
| Document Name:            | Code of Meeting Practice                     |
| Document Status:          | Adopted                                      |
| Version:                  | 13.0   |
| Date:                     | 15 Sept 2015                                 |
| Author:                   | Katherine Garske                             |
| Document Owner:           | Manager Corporate Governance & Records       |
| Authorised By:            | Council Resolution                           |
| Distribution:             | Public, Councillors & Staff via the Internet |
| Council Report Reference: | CCL879-15                                    |
| Council Meeting Date:     | 2 September 2015                             |
| Document No:              | CD15/5                                       |
| File No                   | 12/1695                                      |

## Change History

| Version | Release Date      | Author           | Reason for Change   |
|---------|-------------------|------------------|---|
| 1.0     | May 1994          | Warren Park      | Adopted   |
| 2.0     | August 1998       | Warren Park      | Amended – changes to Regulation   |
| 3.0     | September 1999    | Warren Park      | Amended – new Regulation  |
| 4.0     | 12 Feb 2003       | Warren Park      | Amended – Committee restructure   |
| 5.0     | 24 May 2006       | Warren Park      | Amended – general review FIN158-06  |
| 6.0     | 19 Dec 2007       | Warren Park      | Amended – FIN091-07   |
| 7.0     | 24 Mar 2010       | Warren Park      | Amended – CCL039-10   |
| 8.0     | August 2010       | Warren Park      | Amended – general review (update to DLG Meeting Practice Note 16 August 2009)                             |
| 9.0     | 25 August 2010    | Bruce Cooke      | Amended – CCL173-10   |
| 9.1     | 15 Dec 2010       | Katherine Garske | Amended – Minute No. 384 (15/12/10)   |
| 9.2     | July 2011         | Katherine Garske | Draft proposed for adoption   |
| 9.3     | August 2011       | Katherine Garske | Draft for Public Exhibition   |
| 9.4     | September 2011    | Katherine Garske | Draft for adoption by Council   |
| 10.0    | 28 Sept 2011      | Katherine Garske | Adopted – CCL206-11   |
| 10.1    | 12 December 2012  | Katherine Garske | Removal of Standing Committees; requirement to stand when speaking and Planning items referral to Council |
| 10.2    | 11 July 2013      | Katherine Garske | Draft for Public Exhibition   |
| 10.3    | 11 Sept 2013      | Katherine Garske | Draft for adoption by Council   |
| 11.0    | 18 Sept 2013      | Katherine Garske | Adopted (CCL306-13)   |
| 11.1    | 29 May 2014       | Katherine Garske | Draft for Public Exhibition   |
| 11.2    | 31 July 2014      | Katherine Garske | Draft for adoption by Council   |
| 12.0    | 6 August 2014     | Katherine Garske | Adopted by Council (CCL242-14)  |
| 12.1    | 20 May 2015       | Warren Park      | Draft for approval for Public Exhibition  |
| 12.2    | 25 June 2015      | Katherine Garske | Draft for approval for Public Exhibition  |
| 12.3    | 2 July 2015       | Katherine Garske | Public Exhibition copy post-Council Meeting 1/7/15  |
| 13.0    | 15 September 2015 | Katherine Garske | Adopted by Council (CCL2879-15)   |

## Related Documents

This document should be read in conjunction with:

- Local Government Act, 1993
- Local Government (General) Regulation 2005
- Office of Local Government Practice Note 16, August 2009
- Office of Local Government Circular to Councils 10-10
- Bluett's Local Government Handbook New South Wales (2012; 17<sup>th</sup> edition; D Clark)
- Guide for Meetings and Organisations Volume 2: Guide for Meetings (2005; 8<sup>th</sup> edition; N E Renton)

## Table of Contents

|  |    |
|--|----|
| PART 1 - PRELIMINARY .....   | 5  |
| 1 Citation.....  | 5  |
| 2 Definitions .....  | 5  |
| 3 Act and Regulation .....   | 5  |
| 4 Notes to text.....   | 5  |
| PART 2 - CONVENING OF, AND ATTENDANCE AT, COUNCIL MEETINGS .....                       | 6  |
| 5 Frequency of meetings of the Council .....   | 6  |
| 6 Extraordinary Meetings .....   | 6  |
| 7 Councillor Workshops, briefings and informal meetings .....                          | 6  |
| 8 Notice of meetings .....   | 7  |
| 9 Quorum (S368) .....  | 7  |
| 10 What happens when a quorum is not present (cl 233 Regs) .....                       | 7  |
| 11 Presence at Council meetings (includes Leave of Absence) .....                      | 8  |
| PART 3 - PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS.....                            | 8  |
| 12 Chairperson of Council meetings.....  | 8  |
| 13 Chairperson to have precedence (cl 237 Regs).....                                   | 9  |
| 14 Chairperson's duty with respect to motions (cl 238 Regs) .....                      | 9  |
| 15 Confirmation of Minutes .....   | 9  |
| 16 Order of business .....   | 10 |
| 17 Business papers for Council meetings.....   | 10 |
| 18 Giving notice of business (cl 241 Regs).....  | 11 |
| 19 Business paper for extraordinary meeting (cl 242 Regs) .....                        | 11 |
| 20 Official minutes (Mayoral Minute) .....   | 12 |
| 21 Report of Director-General to be tabled at Council meeting (cl 244 Regs) .....      | 12 |
| 22 Notice of motion.....   | 12 |
| 23 Motions to be seconded.....   | 13 |
| 24 How subsequent amendments may be moved .....  | 13 |
| 25 Motions of Dissent (cl 248 Regs) .....  | 13 |
| 26 Petitions may be presented to the Council.....                                      | 13 |
| 27 Questions may be put to Councillors and Council employees .....                     | 13 |
| 28 Questions With Notice (QWN) .....   | 14 |
| 29 Mode of address .....   | 14 |
| 30 Limitation as to number of speeches (cl 250 Regs) .....                             | 14 |
| 31 Motions put without debate .....  | 15 |
| 32 Voting at Council meetings (cl 251 Regs).....                                       | 15 |
| 33 Decisions of the Council .....  | 16 |
| 34 Rescinding or altering resolutions (S372) .....                                     | 16 |
| 35 Rescission Motions – Council Meetings .....   | 17 |
| 36 Rescission Motion Format .....  | 17 |
| 37 Motions of adjournment .....  | 17 |
| PART 4 - KEEPING ORDER AT MEETINGS.....  | 18 |
| 38 Questions of order (cl 255 Regs) .....  | 18 |
| 39 Acts of disorder .....  | 18 |
| 40 How disorder at a meeting may be dealt with (cl 257 Regs) .....                     | 19 |
| 41 Power to remove persons from meeting after expulsion resolution (cl 258 Regs) ..... | 19 |
| PART 5 - COUNCIL COMMITTEES.....   | 19 |
| 42 Committee of the Whole (Closed Session) .....                                       | 19 |
| 43 Council may appoint committees and determine frequency of meetings ...              | 20 |
| 44 Functions of committees (cl 261 Regs).....  | 20 |

|    |  |    |
|----|--|----|
| 45 | Notice of committee meetings to be given (cl 262 Regs) .....                           | 20 |
| 46 | Non-members entitled to attend committee meetings (cl 263 Regs) .....                  | 20 |
| 47 | Procedure in committees (cl 265 Regs) .....  | 21 |
| 48 | Chairperson and deputy chairperson of committees.....                                  | 21 |
| 49 | Absence from committee meetings (cl 268 Regs) .....                                    | 21 |
| 50 | Reports of committees (cl 269 Regs).....   | 21 |
| 51 | Disorder in committee meetings (cl 270 Regs) .....                                     | 21 |
| 52 | Committee may expel certain persons from its meetings (cl 271 Regs) ....               | 22 |
|    | PART 6 - PECUNIARY INTERESTS.....  | 22 |
| 53 | Pecuniary interest .....   | 22 |
|    | PART 7 - PRESS AND PUBLIC .....  | 23 |
| 54 | Public notice of meetings .....  | 23 |
| 55 | Attendance at meetings of the Council .....  | 23 |
| 56 | Public Participation at Council / Committee Meetings.....                              | 24 |
| 57 | Public access to correspondence and reports .....                                      | 25 |
|    | PART 8 - MISCELLANEOUS .....   | 25 |
| 58 | Urgent Minor Matters .....   | 25 |
| 59 | Information relating to proceedings at closed meetings not to be disclosed (S664)..... | 25 |
| 60 | Inspection of the minutes of the Council or a committee.....                           | 25 |
| 61 | Recording of meeting of the Council or a committee prohibited.....                     | 26 |
| 62 | Recording of meeting by the Council or a committee .....                               | 26 |
| 63 | Certain circumstances do not invalidate Council decisions (S374).....                  | 26 |
| 64 | Referral of Planning and Development Matters to Council .....                          | 27 |
| 65 | Amendment of Code.....   | 27 |

## PART 1 - PRELIMINARY

### 1 Citation

This Code may be cited as the Hurstville City Council Code of Meeting Practice.

**Note:** *The Office of Local Government, Meetings Practice Note No 16 (August 2009) and Council's Code of Conduct should be read in conjunction with this Code.*

### 2 Definitions

(1) In this Code:

**amendment**, in relation to an original motion, means a motion moving an amendment to that motion;

**chairperson**,

(a) in relation to a meeting of the Council - means the person presiding at the meeting as provided by clause 13 of this Code; and

(b) in relation to a meeting of a committee - means the person presiding at the meeting as provided by clause 48 of this Code;

**committee** means a committee appointed or elected by the Council in accordance with clause 43(1) or the Council when it has resolved itself into a committee of the whole;

**leave of Council** means with the approval of Council;

**procedural motion** means a motion dealing with the conduct of a meeting e.g.

- items brought forward (suspension of standing orders)

- moving items in a block

**record** means a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or received in the course of official duties by a Councillor or an employee of the Council and, in particular, includes the minutes of meetings of the Council or of a committee of the Council;

**the Act** means the Local Government Act 1993;

**the Code** means the Hurstville City Council Code of Meeting Practice; and

**the Regulation** (Regs) means the Local Government (General) Regulation 2005.

(2) Except as otherwise provided, expressions used in this Code, which are defined in the dictionary at the end of the Local Government Act (Act), have the meanings set out in the dictionary.

### 3 Act and Regulation

(1) This Code is made pursuant to section 360 (2) of the Act.

(2) It incorporates relevant provisions of the Regulation and the Act.

(3) In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.

### 4 Notes to text

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

References to the Act are shown as (SXXX)

References to the Regulations are shown as (cl XXX Regs)

## **PART 2 - CONVENING OF, AND ATTENDANCE AT, COUNCIL MEETINGS**

### **5 Frequency of meetings of the Council**

- (1) The Council is required to meet at least 10 times each year, each time in a different month. (S365)
- (2) The Council shall, by resolution, set the time, date and place of meetings of the Council.
- (3) Notwithstanding (2) above, the Mayor may, at his/her discretion, call meetings of the Council, notice of which shall be given in accordance with this Code. [The Notice is issued by the General Manager].
- (4) That Council Meetings terminate at 11:00pm unless a Motion for a half-hour extension of time to 11:30pm and, if necessary, for a further half-hour to 12:00 midnight, be carried.
- (5) The meeting shall be adjourned at 12:00 midnight, until such day and time as shall be fixed by the Chairperson, the majority of Councillors present or the General Manager (cl 233 Regs).
- (6) Not less than 3 clear days' notice of an adjourned meeting shall be given to Members.
- (7) Notwithstanding (4) above, Council may so determine to carry on business past midnight to finalise business rather than incurring costs to call an adjourned meeting and such action shall not invalidate any decisions made past midnight (S374).

**Note:** *The Council normally meets on the first and third Wednesday of the month, with meetings customarily commencing at 7:00pm*

### **6 Extraordinary Meetings**

- (1) If the Mayor receives a request in writing signed by at least two (2) Councillors, the Mayor must call an extraordinary meeting of the Council to be held as soon as practicable but in any event within 14 working days after the receipt of the request. (S366). The Mayor may be one of the two (2) Councillors.
- (2) For the purpose of this Clause, a working day is a day that is not a Saturday, Sunday or public holiday.
- (3) That if the Mayor considers a matter to be so urgent that it cannot wait for submission to a night within the 14 day period where another scheduled meeting of the Council is being held, the Mayor may then call an extraordinary meeting of the Council to be held as soon as practicable, but in accordance with Clause 8 (Notice of meetings) so as to allow not less than 3 clear days' notice of the meeting, unless it is an emergency where less than 3 clear days' notice may be given (see cl 8[3]).
- (4) Further, meetings shall generally be called for 7:00pm on a weekday however they may be called at some other time should this be necessary and appropriate.

**Note:** *Extraordinary Council Meetings are customarily called on either the second, fourth or (where relevant) fifth Wednesday of the month.*

### **7 Councillor Workshops, briefings and informal meetings**

- (1) Councillor Workshops
  - a. will be held as and when determined by the Council within its regular meeting cycle or as determined by the Mayor or General Manager having regard to the amount of information to be provided to Councillors and of any urgent nature.

- b. normally commence at 7:00pm and shall conclude at 9:00pm unless those present by consensus allow the workshop to continue until all information on the agenda has been presented.
- (2) Councillor briefings are held as requested generally to inform Councillors of matters currently before consideration of the Council.
- (3) Informal meetings are held as requested to brief Councillors on matters that are not currently before the Council.

**Note:** Council from time to time conducts workshops, briefings and informal meetings with Councillors on issues relevant to Council business. The sessions provide an informal environment to allow Councillors to receive information and ask questions about issues outside of the formal meeting process. At these meetings Council will not:

- a. formally consider any specific reports containing recommendations; or
- b. make a binding decision in relation to any matters discussed during the workshop, briefing or informal meetings.

Councillor Workshops, Briefings and informal meetings are not open to the public but may involve members of the community by invitation where relevant.

## 8 Notice of meetings

- (1) The General Manager of a Council must send to each Councillor, at least 3 days before each meeting of the Council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting. (S367 [1])
- (2) The notice of meeting will be provided electronically to Councillors, who will have been provided the facilities to access the notice, agenda and business papers (S367[3]).
- (3) Notice of less than 3 days' may be given of an extraordinary meeting called in an emergency, but in no case shall notice of less than one day be given (S367 [2]).
- (4) For the purpose of this Clause, 3 days' notice before a meeting of the Council includes a Saturday, Sunday and/or a Public Holiday.
- (5) Notice must also be given of Council (cl 232 Regs) in a local newspaper indicating the time & place of the meeting. Notice does not have to be by publication for Extraordinary Council however, a Notice must be placed on Councils public notice board, at least 1 day prior to the meeting being held.

**Note:** From 2011 it has been the practice of Council to publish the business paper on-line on the Thursday prior to the following Wednesday meeting.

The Council has delegated functions of the Council under S377 to the General Manager and in accordance with that authority has the power to set a meeting date for meetings of the Council.

## 9 Quorum (S368)

The quorum for a meeting of the Council is a majority of the Councillors of the Council who hold office for the time being and are not suspended from office.

## 10 What happens when a quorum is not present (cl 233 Regs)

- (1) A meeting of the Council must be adjourned if a quorum is not present:
  - a. within half an hour after the time designated for the holding of the meeting; or
  - b. at any time during the meeting.
- (2) In either case, the meeting must be adjourned to a time, date and place fixed:
  - a. by the chairperson; or
  - b. in his or her absence by the majority of the Councillors present; or
  - c. failing that, by the General Manager.
- (3) The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a



quorum) at or arising during a meeting of the Council, together with the names of the Councillors present.

- (4) A meeting of the Council must be held or at least opened if a meeting notice has been given. The meeting cannot be abandoned or cancelled.

**Note:** *Meetings must commence on time or within half an hour after the time designated for the holding of the meeting.*

## **11 Presence at Council meetings (includes Leave of Absence)**

- (1) A Councillor cannot participate in a meeting of the Council unless personally present at the meeting. (cl 235 Regs)
- (2) The General Manager
  - a. is entitled to attend, but not to vote at a meeting of the Council of which all the members are Councillors.
  - b. is entitled to attend a meeting of any other Committee of the Council and may, if a member of the Committee, exercise a vote.
  - c. may be excluded from a meeting of the Council or a Committee while the Council or Committee deals with a matter relating to the standard of performance of the General Manager or the terms of the employment of the General Manager.
- (3) A Councillor
  - a. When submitting an application for leave of absence from Council Meetings should, if practicable, identify (by date) the meetings from which the Councillor intends to be absent. (cl 235A [1] Regs)
  - b. who intends to attend a Council Meeting despite having been granted leave of absence should, if practicable, give the General Manager at least 2 days' notice of his or her intention to attend. (cl 235A [2] of Regs)
- (4) For attendance purposes, a Councillor shall not be deemed to be present at any Council meeting, unless they are within the Council Chamber. For the purposes of this requirement, the Council Chambers foyer or Councillors' Suite is not regarded as being in the Council Chamber.
- (5) Councillors declaring an interest in a matter at a Council meeting and leaving the Chamber shall not remain in either the public gallery or any part of the foyer within view of the meeting.
- (6) A Councillor shall not be deemed to be present at any Committee meeting unless they are within the designated meeting room itself.

## **PART 3 - PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS**

### **12 Chairperson of Council meetings**

- (1) The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor shall preside at meetings of the Council.
- (2) If the Mayor and the Deputy Mayor are absent, a Councillor shall be elected to chair the meeting by the Councillors present and following such election shall preside at the meeting of the Council.

**Note:** (S369)

- (3) If no chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.

- (4) The election must be conducted:
  - a. by the General Manager or, in his or her absence, an employee of the Council designated by the General Manager to conduct the election; or
  - b. if neither of them is present at the meeting or there is no General Manager or designated employee by the person who called the meeting or a person acting on his or her behalf.
- (5) If, at an election of a chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- (6) For the purposes of subclause (3), the person conducting the election must:
  - a. arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
  - b. then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- (7) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

**Note:** (cl 236 Regs)

### **13 Chairperson to have precedence (cl 237 Regs)**

When the chairperson rises or speaks during a meeting of the Council:

- (a) any Councillor then speaking or seeking to speak must immediately resume his or her seat, if standing; and
- (b) every Councillor present must be silent to enable the chairperson to be heard without interruption.

### **14 Chairperson's duty with respect to motions (cl 238 Regs)**

- (1) It is the duty of the chairperson at a meeting of the Council to receive and put to the meeting any lawful motion that is brought before the meeting.
- (2) The chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- (3) Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected.

### **15 Confirmation of Minutes**

- (1) The Council must ensure that full and accurate minutes are kept of proceedings of the Council.
- (2) The General Manager must ensure that the following matters are recorded in the Council's minutes:
  - a. details of each motion moved at a Council meeting and of any amendments moved to it,
  - b. the names of the mover and seconder of the motion or amendment,
  - c. whether the motion or amendment is passed or lost.
  - d. the record of votes for and against matters relating to Planning (S375A).
  - e. the names of any speakers from the public speaking for or against a report.

**Note:** Section 375 (1) of the Act requires a Council to ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council [other provisions of this Regulation and of the Act require particular matters to be recorded in a Council's minutes].

- (3) The accuracy of the minutes of every preceding meeting, including extraordinary meetings, not previously confirmed must be dealt with at every meeting of the Council, in order that such minutes may be confirmed.
- (4) A motion or discussion with respect to such minutes shall not be in order except with

regard to their accuracy as a true record of the proceedings.

- (5) Minutes may be confirmed at an extraordinary meeting of the Council.
- (6) The minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent meeting.

## **16 Order of business**

- (1) At a meeting of the Council (other than an extraordinary meeting, a meeting resolved by Council to be for a specific purpose or a meeting called by the Mayor in accordance with Clause 5 (3) of this Code) the general order of business shall be:
  1. The National Anthem
  2. Opening Prayer
  3. Acknowledgement of traditional custodians
  4. Apologies
  5. Mayoral Minute
  6. Matters of Privilege
    - Condolences
    - Other
  7. Disclosures of Interest
  8. Minutes of Previous Meetings (Council and Committees)
  9. Council Reports
  10. Notices of Motion
  11. Questions With Notice
  12. Closed Council session (Committee of the Whole)
  13. Consideration of Closed Council session recommendations.
- (2) Matters of Privilege referred to in (1) 6 above are to be confined to condolences, congratulations, presentations and matters ruled by the chairperson to be of extreme urgency and that a time limit of five (5) minutes be imposed on issues raised within privilege.
- (3) The Mayor may bring forward an item of business from the business paper where it is established that a member of the public with an interest in that item is present in the public gallery.
- (4) The order of business fixed under subclause (1) may be altered if a motion to Suspend Standing Orders (order of business) to that effect is carried, following which, Standing Orders (order of business) shall be resumed.
- (5) Notwithstanding Clause 30, only the mover of a motion referred to in subclause (4) may speak to the motion before it is put.
- (6) Council Meeting Reports referred to in (9) above may relate to any matter needing the Council's consideration that have not had the opportunity to be considered through a Committee process. The General Manager or Acting General Manager has the sole discretion for referring reports through this process. In addition, reports requiring consideration in Closed Session (Committee of the Whole) will be referred to under this item, but the item itself will appear under Committee of the Whole within the EBP.
- (7) Reports relating to development matters, including development application, development control plans and local environment plans which may not be determined under delegated authority or require a resolution of Council to be enacted will be considered as the first priority under "Council Reports".

## **17 Business papers for Council meetings**

- (1) The General Manager must ensure that the agenda for a meeting of the Council states:
  - a. all matters to be dealt with arising out of the proceedings of former meetings of the Council, and

- b. if the mayor is the chairperson - any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - c. subject to subclause (2), any business of which due notice has been given.
- (2) The General Manager must not include in the agenda for a meeting of the Council any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business would be) unlawful. The General Manager must report (without giving details of the item of business) any such exclusion to the next meeting of the Council.
- (3) The General Manager must cause the agenda for a meeting of the Council or a committee of the Council to be prepared as soon as practicable before the meeting.
- (4) The General Manager must ensure that the details of any item of business to which section 9 (2A) of the Act applies are included in a business paper for the meeting concerned.
- (5) Nothing in this clause limits the powers of the chairperson under clause 20.

**Note:** (cl 240 Regs)

## **18 Giving notice of business (cl 241 Regs)**

- (1) The Council must not transact business at a meeting of the Council:
- a. unless a Councillor has given notice of the business in writing delivered to the General Manager in sufficient time for notice of the business to be given to the Council in accordance with Clause 8 of this Code and distributed with the appropriate business paper or if the matter is determined as urgent in accordance with subclause (3); and
  - b. unless notice of business has been sent to the Councillors at least 3 days before the meeting, or, in the event of an extraordinary meeting called in an emergency, at least one day.
- (2) Subclause (1) does not apply to:
- a. business which is already before, or directly relates to a matter that is already before, the Council;
  - b. the election of a chairperson to preside at the meeting as provided by Clause 12(3);
  - c. a matter or topic put to the meeting by the Chairperson in accordance with Clause 20;
  - d. is a motion for the adoption of recommendations of committees of the Council;
  - e. reports from officers which in the opinion of the chairperson or the General Manager are urgent; and
  - f. reports from officers placed on the business paper pursuant to a decision of a committee that additional information be provided to the Council in relation to a matter before the committee.
- (3) Despite subclause (1), business may be transacted at a meeting of the Council when due notice of the business has not been given to Councillors, but only if:
- a. a motion is passed to have the business transacted at the meeting; and
  - b. the business proposed to be brought forward is ruled by the chairperson to be of great urgency. Such a motion can be moved without notice.
- (4) Despite clause 30, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put.

## **19 Business paper for extraordinary meeting (cl 242 Regs)**

- (1) The General Manager must ensure that the business paper for an extraordinary meeting of the Council deals only with the matters stated in the notice of the meeting.

- (2) Despite subclause (1), business may be transacted at an extraordinary meeting of the council even though due notice of the business has not been given to the Councillors if:
  - a. a motion is passed to have the business transacted at the meeting; and
  - b. the business proposed to be brought forward is ruled by the chairperson to be of great urgency. Such a motion can be moved without notice.
  - c. Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.
- (3) Despite clause 30, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.

## **20 Official minutes (Mayoral Minute)**

- (1) If the Mayor (or the Deputy Mayor, if acting for the Mayor) is the chairperson at a meeting of a Council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge.
- (2) Such a minute, when put to the meeting, takes precedence over all business on the Council's business paper for the meeting. The chairperson (but only if the chairperson is the Mayor, or the Deputy Mayor, if acting for the Mayor) may move the adoption of the minute without the motion being seconded.
- (3) A recommendation made in a minute of the chairperson (being the Mayor, or Deputy Mayor, if acting for the Mayor) or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council.

**Note:** (cl 243 Regs)

- (4) The Mayor shall make every effort to make available a Mayoral Minute as early as possible prior to a meeting at which it is to be considered.

## **21 Report of Director-General to be tabled at Council meeting (cl 244 Regs)**

When a report of the Director-General has been presented to a meeting of a Council in accordance with section 433 of the Act, the Council must ensure that the report:

- a. is laid on the table at that meeting; and
- b. is subsequently available for the information of Councillors at all reasonable times.

## **22 Notice of motion**

- (1) In the absence of a Councillor who has placed a notice of motion (cl 245 Regs) on the business paper for a meeting of the Council:
  - a. any other Councillor may move the motion at the meeting; or
  - b. the chairperson may defer the motion until the next meeting of the Council at which the motion can be considered.
- (2) Notices of Motion are to be submitted electronically and to be received by the Governance Officer by noon, seven (7) days prior to the Council meeting.
- (3) The General Manager (or relevant council officer) may add comments to the Notice of Motion to provide additional information or to clarify factual matters. Updated versions of items amended after initial publication of the business paper are to be provided to the public gallery.

**Note:** Under clause 240 (2) of the Local Government (General) Regulations, the General Manager still has the right to exclude a Notice of Motion, if in the opinion of the General Manager, the business is or the implementation of the business would be unlawful.

## **23 Motions to be seconded**

- (1) A motion or an amendment cannot be debated unless or until it has been seconded. However, the mover of a motion may be allowed by the chairperson to speak to the motion before calling for the motion to be seconded. This clause is subject to clauses 20 (2) and 30 (5).
- (2) The seconder of a motion or of an amendment may reserve the right to speak later in the debate.

## **24 How subsequent amendments may be moved**

- (1) If an amendment has been accepted or rejected, a further amendment can be moved to the motion in its original or amended form (as the case may be), and so on, but no more than one motion and one proposed amendment can be before the Council at any one time. (cl 247 Regs).
- (2) It is permissible to debate the motion and an amendment concurrently.
- (3) It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.

## **25 Motions of Dissent (cl 248 Regs)**

- (1) A Councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- (2) In the event of a motion of dissent being moved, the chairperson may remain in the chair during consideration of such motion by the Council and, if necessary, exercise his/her casting vote in accordance with Clause 32 (2) of this Code.
- (3) If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the business paper and proceed with it in due course.
- (4) Despite clause 30, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

## **26 Petitions may be presented to the Council**

- (1) A Councillor may present a petition to the Council.
- (2) The Chairperson must not permit discussion on the petition, unless it relates to an item on the business paper. Petitions shall be referred to the General Manager for referral to an appropriate officer for report, or reply after appropriate action.

## **27 Questions may be put to Councillors and Council employees**

- (1) A Councillor:
  - a. may, through the chairperson, put a question to another Councillor; and
  - b. may, through the chairperson and the General Manager, put a question to a Council employee.
- (2) However, a Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.
- (3) The Councillor must put every such question directly, succinctly and without argument.

- (4) The chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this clause.

**Note:** (cl 249 Regs)

- (5) Nothing in this clause affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting.

## **28 Questions With Notice (QWN)**

- (1) Questions With Notice are to be submitted electronically and to be received by the Governance Officer by 12:00 noon, seven (7) days prior to the Council meeting. Updated versions of items amended after initial publication of the business paper are to be provided to the public gallery at the meeting and are available electronically to Councillors and to the public on-line

- (2) The relevant council officer will endeavour to provide a written response within the business paper at the time of publication, if time permits, or up to the evening prior to the Council meeting. If an answer cannot be provided in this manner or at the Council meeting the QWN would be taken on notice for a report to a subsequent meeting.

**Note:** *These questions are not subject to public address*

- (3) Councillors should forward by email issues of operational concern raised by constituents to the responsible Director, or the relevant authorised contact officer to enable matters to be dealt with at the earliest opportunity rather than submitting them as Questions With Notice.

- (4) Questions With Notice should be restricted to matters of Council Business (Policy or Operational). Other issues should be addressed through other forums. Matters of concern or disciplinary matters regarding Councillors or staff actions / behaviours will not be dealt with under Questions With Notice but rather through the General Manager in accordance with the Council's Code of Conduct.

- (5) Where Questions without Notice are raised at a Council Meeting (Cl 27) that are "taken on notice", the question and its response are to be referred to the next Council meeting in the form of a report.

**Note:** *Questions With Notice was implemented in accordance with Cl 241 of the Local Government (General) Regulations 2005, OLG Meeting Practice Note 16 (2009) and OLG Circular to Councils 10-10*

## **29 Mode of address**

Councillors shall at all times address other Councillors by their official designation, as Mayor or Councillor, as the case may be; and with the exception of the chairperson, or any Councillor prevented by physical infirmity, shall stand when speaking.

## **30 Limitation as to number of speeches (cl 250 Regs)**

- (1) A Councillor who, during a debate at a meeting of the Council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.

- (2) A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.

- (3) A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment and for longer than 5 minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.

- (4) Despite subclauses (1) and (2), if the mover of a motion or amendment has spoken

in favour of it and no Councillor expresses an intention to speak against it or if at least 2 Councillors have spoken in favour of a motion or an amendment and at least 2 Councillors have spoken against the motion or amendment, any Councillor may move that the question be now put.

- (5) The chairperson must immediately put to the vote a motion under subclause (4) without the motion being seconded and without debate
- (6) If a motion that the question be now put is passed, the chairperson must, after the mover of the motion has exercised his or her right of reply under subclause (1), immediately put the question to the vote without further discussion.
- (7) If a motion that the question be now put is rejected, the chairperson must resume the debate on the original motion or amendment.

### **31 Motions put without debate**

Provided there is no objection from any Councillor present, any motion or recommendation before the Council may be put to the vote without discussion or debate.

### **32 Voting at Council meetings (cl 251 Regs)**

- (1) Each Councillor is entitled to one vote. (S370)
- (2) Voting at a Council meeting, including voting at an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the Council may resolve that the voting in an election by Councillors for mayor or deputy mayor is to be by secret ballot.
- (3) The Chairperson has, in the event of an equality of votes, a second or casting vote (S370) and that vote shall be used at the absolute discretion of the Chairperson.
- (4) A Councillor who is present at a meeting of the Council but who fails to vote on a motion or an amendment put to the meeting is taken to have voted against the motion (S251[1]).

**Note:** *A failure to vote counting against a motion includes where a Councillor abstains from voting, whether formally selecting "abstain" through Council's electronic system or by stating they abstain. (OLG Meeting Practice Note 16 [2009])*

- (5) If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.
- (6) The decision of the chairperson as to the result of a vote is final, unless:
  - a. in the case where a vote has been declared on the voices, a Councillor immediately requests a show of hands; or
  - b. the decision is immediately challenged and not fewer than 2 Councillors rise and demand a division.
- (7) When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes.

**Note:** *Any division will be recorded through the use of the electronic voting system installed in the Council Chambers. Should the electronic system be unavailable, the former custom of standing will be utilised.*

- (8) Where a tie in the voting occurs and the chairperson is entitled to a casting vote in accordance with Clause 32 (3) of this Code but declines to exercise such casting vote, the vote is lost and a new proposal should then be moved.
- (9) That Council when determining all planning, development, or related applications, Council will give relevant planning reasons for its decisions, if they depart from the recommendations of the staff.
- (10) When Council is considering planning matters, that is all Development Application



matters, and site specific Development Control Plans and Local Environmental Control Plans, the General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes (see also Clause 32[4] above).

**Note:** *This clause took effect from the first meeting in 2008. (S375A).*

### **33 Decisions of the Council**

A decision supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council. (S371)

### **34 Rescinding or altering resolutions (S372)**

- (1) A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with clause 18. A motion to rescind or alter a resolution of the Council shall not be considered at the same meeting at which the resolution was passed.
- (2) If it is proposed to move a further motion in the event that a rescission motion is carried, the required notice must also be given of the proposed further motion.
- (3) If a notice of motion to rescind or alter a resolution is given:
  - a. at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission or alteration has been dealt with; or
  - b. at any time after the meeting at which the resolution is carried, no further action to carry the resolution into effect may be taken after receipt of the notice of motion until the motion of rescission or alteration has been dealt with.
- (4) In the case of a motion of alteration, subclause (3) applies only to the extent that the resolution of Council would be affected by the motion of alteration, if it is carried.
- (5) If a motion has been negated by the Council, a motion having the same effect must not be considered unless notice of it has duly been given in accordance with clause 18.
- (6) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the Council, must be signed by at least 3 Councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
- (7) If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within 3 months. This subclause may not be evaded by substituting a motion differently worded, but in principle the same.
- (8) A motion to which this clause applies may be moved on the report of a committee of the Council and any such report must be recorded in the minutes.
- (9) The provisions of this clause concerning negated motions do not apply to motions of adjournment.
- (10) Notwithstanding the provisions of subclause (1), Council may, by resolution, provided that the majority of Councillors present agree, re-commit a matter for further consideration at the same meeting at which the matter has been resolved, to avoid the necessity to rescind the resolution. However re-committal will not be allowed if the meeting lapses for want of a quorum or is adjourned to another day.

**Note:** *The purpose of sub-clause (10) is to permit the Council to re-visit a decision taken, where it is realised after the vote on the matter, which because there may have been confusion or misunderstandings during debate, the decision may be inconsistent with the wishes of a majority of Councillors.*

### 35 Rescission Motions – Council Meetings

- (1) That the procedure in relation to the submission of rescission motions be that the Member/s submit the formal rescission motion with confirmed support (in writing) by three (3) Councillors no later than 12:00 noon on the third work day following the Council meeting. Failure to meet this timetable may see the original resolution actioned.

**Note:** *Confirmed support in writing may take the form of an email, letter or copy of the rescission duly signed by the Councillors, and may consist of a combination of any or all of these in support of a rescission. Verbal expressions of support will not be considered.*

- (2) The General Manager will notify the relevant Directors, Manager Corporate Governance and the author of the report subject to the Rescission Motion as soon as verbal advice has been received that a Rescission Motion is to be lodged. The appropriate actioning officer will be responsible for ensuring that no further action is taken in respect to the matter pending the item being reconsidered at a future meeting of the Council.

### 36 Rescission Motion Format

THAT the following resolution of the Council / Meeting of the [date] in relation to [Item number and Title] be rescinded:

*RESOLVED THAT ...*

FURTHER THAT if the rescission motion is successful that it be superseded by the following.

THAT ...

**[The Report Detail should provide the reasons for the rescission.]**

[Three Councillors to sign a hardcopy of the motion or provide written agreement to the motion electronically.]

### 37 Motions of adjournment

- (1) Debate shall not be permitted on any motion for adjournment of a meeting of the Council.
- (2) If a motion for adjournment is negatived, the business of the meeting shall proceed, and it shall not be in order for any Councillor to again move a motion for adjournment within half an hour of the previous motion for adjournment being negatived.
- (3) A motion for adjournment may specify the time, date and place of the adjourned meeting; however, if a motion for adjournment is carried but does not specify the time, date and place of the adjourned meeting, the chairperson shall make a determination with respect to whichever of these has not been specified, in accordance with the regulation (cl 233 Regs)

## PART 4 - KEEPING ORDER AT MEETINGS

### 38 Questions of order (cl 255 Regs)

- (1) The chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.
- (2) A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the chairperson to the matter.
- (3) The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council.
- (4) The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

### 39 Acts of disorder

- (1) A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a committee of the Council:
  - a. contravenes the Act, any regulation in force under the Act or this Code; or
  - b. assaults or threatens to assault another Councillor or person present at the meeting; or
  - c. moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or committee, or addresses or attempts to address the Council or committee on such a motion, amendment or matter; or
  - d. insults or makes personal reflections on or imputes improper motives to any other Councillor; or
  - e. says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or committee into contempt;  
**Note:** (cl 256 Regs)
  - f. reads at length from any correspondence, report or other document, without the leave of the Council.
- (2) The chairperson may require a Councillor:
  - a. to apologise without reservation for an act of disorder referred to in subclause (1) (a) or (b); or
  - b. to withdraw a motion or an amendment referred to in subclause (1) (c) and, where appropriate, to apologise without reservation; or
  - c. to retract and apologise for an act of disorder referred to in subclause (1) (d) or (e).
  - d. to refrain from further reading and apologise for the act of disorder in subclause 1(f).
- (3) The Council or committee of the Council may, by resolution, expel from a meeting a Councillor who fails to comply with a requirement made under subclause (2). The expulsion of a Councillor under this subclause does not prevent any other action from being taken against the Councillor for the act of disorder concerned.
- (4) The provisions of the Code of Conduct adopted by Council on 6 March 2013 or subsequent amendments made thereto that reflect on the Council's Code of Meeting Practice be endorsed.
- (5) Any matter of concern about the actions / behaviour of a Councillor are to be addressed as outlined in the Code of Conduct, if warranted, and not be the subject of debate or discussion at a Council Meeting.

## **40 How disorder at a meeting may be dealt with (cl 257 Regs)**

- (1) If disorder occurs at a meeting of the Council or committee of the Council, the chairperson may adjourn the meeting for a period of not more than 15 minutes and leave the chair. The Council, on reassembling, must, on a question put from the chair, decide without debate whether the business is to be proceeded with or not. This subclause applies to disorder arising from the conduct of members of the public as well a disorder arising from the conduct of Councillors.
- (2) The Council or committee may, by resolution, expel a member of the public from a Council or committee meeting on the ground that the member is engaging in or has, at the meeting, engaged in disorderly conduct.

## **41 Power to remove persons from meeting after expulsion resolution (cl 258 Regs)**

If a meeting of the Council or committee of the Council resolves to expel from the meeting a Councillor for failing to comply with a requirement made under clause 39 or a member of the public for disorderly conduct and the Councillor or member of the public fails to leave the meeting immediately after the resolution is passed, a police officer or any person authorised by the Council or committee for the purpose, may remove the person from the meeting and, if necessary, restrain the person from re-entering the place where the meeting is being held.

## **PART 5 - COUNCIL COMMITTEES**

### **42 Committee of the Whole (Closed Session)**

- (1) The Council may resolve itself into a Committee of the Whole to consider any matter before the Council.
- (2) Before resolving into Committee of the Whole the chairperson must ascertain whether or not any member of the public present wishes to address Council as to whether or not the meeting should be closed to the public to consider particular issues on the basis of such period being held immediately prior to the time when Council proposes to close the meeting with any address from a member of the public to be for a maximum period of two (2) minutes and, if appropriate, addresses are to be taken on a "for" and "against" basis. The period for representation ceases when the Chairperson calls for the public to vacate the Chamber. (cl 264 Regs).
- (3) All the provisions of this Code relating to meetings of the Council, so far as they are applicable, extend to and govern the proceedings of a Committee of the Whole, except the provisions:
  - a. limiting the number and duration of speeches; and (cl 259 [1] Regs)
  - b. requiring Councillors to stand when speaking.
- (4) If a Council resolves that a meeting, or a part of a meeting, is to be closed to the public, the chairperson must make the recommendations of the closed session public as soon as practicable after the meeting or part of the meeting has ended.
- (5) The General Manager is responsible for reporting to the Council proceedings in a closed session. It is not necessary to report the proceedings in full but any recommendations of the committee must be reported.
- (6) The Council must ensure that a report of the proceedings is recorded in the Council's minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed.

### **43 Council may appoint committees and determine frequency of meetings**

- (1) The Council may appoint or elect such committees as it considers necessary.
- (2) The Council may determine the dates and times of meetings of committees appointed or elected by Council and additional meetings of committees appointed or elected by Council may be convened by Council, the Mayor or in his/her absence the Deputy Mayor or the Chairperson of the committee concerned, subject to appropriate notice of the meeting of the committee being given in accordance with Clause 45 of this Code.

*Note: Advisory Committees meet at various times, the schedules of which are published online.*

- (3) The Members of a particular committee may agree to vary the time of commencement of that committee from time to time.
- (4) Such a committee is to consist of such number of Councillors of the Council as the Council decides.
- (5) The quorum for a meeting of such a committee shall be as determined by resolution of the Council from time to time or if the Council has not determined a quorum shall be a majority of the members of the committee and, in the event of a quorum not being present, all committees shall have the power to co-opt other Councillors so as to provide a quorum, and the co-opted Councillor(s) shall be regarded for the purpose of that particular meeting as having the same rights and privileges as if they were appointed or elected members of the committee and where no members of a committee are available, the Mayor, or in his/her absence the Deputy Mayor, shall have the authority to co-opt other Members of Council so as to provide a quorum and the before-mentioned rights and privileges shall apply to such co-opted Members.

### **44 Functions of committees (cl 261 Regs)**

The Council must specify the functions of each of its committees when the committee is appointed or elected, but may from time to time amend those functions.

### **45 Notice of committee meetings to be given (cl 262 Regs)**

- (1) The General Manager of the Council must send to each Councillor, at least 3 days before each meeting of the committee, a notice specifying:
  - a. the time and place at which and the date on which the meeting is to be held; and
  - b. the business proposed to be transacted at the meeting.
- (2) However, notice of less than 3 days may be given of a committee meeting called in an emergency by the Mayor or in his/her absence the Deputy Mayor or the Chairperson of the committee, but in no case shall less than one day be given.
- (3) The manner of giving notice of a committee meeting may be undertaken in the same manner as giving notice of a Council Meeting as referred to in Clause 8 of this Code.
- (4) The provisions of clause 17 (2), (3) and (4) apply to the business papers of committee meetings in the same manner as they apply to the business papers of meetings of the Council.

### **46 Non-members entitled to attend committee meetings (cl 263 Regs)**

Except as provided for in Clause 43(5) a Councillor who is not a member of a committee of the Council is entitled to attend and speak at, but is not entitled to vote at, a meeting of the committee.

## **47 Procedure in committees (cl 265 Regs)**

- (1) Each committee of the Council may regulate its own procedure.
- (2) Without limiting subclause (1), a committee of the Council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote.
- (3) Voting at a committee meeting is to be by open means (such as on the voices or by show of hands).

## **48 Chairperson and deputy chairperson of committees**

- (1) The Chairperson of each Committee of the Council, must be:
  - a. the Mayor; or
  - b. if the Mayor does not wish to be the Chairperson of a committee, a member of the committee elected by the Council; or
  - c. if the Council does not elect such a member, a member of the committee elected by the committee
- (2) A Council may elect a member of a Committee of the Council as Deputy Chairperson of the Committee. If the Council does not elect a deputy Chairperson of such a Committee, the Committee may elect a Deputy Chairperson.
- (3) If neither the Chairperson nor the Deputy Chairperson of a Committee of a Council is able or willing to preside at a meeting of the Committee, the Committee must elect a member of the Committee to be acting Chairperson of the Committee.
- (4) The chairperson is to preside at a meeting of a committee of a council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

**Note:** *Cl 267 Regs*

**Note:** *The Mayor is, by virtue of holding that office, a member of each committee of the Council.*

## **49 Absence from committee meetings (cl 268 Regs)**

- (1) A member ceases to be a member of a committee if the member (other than the Mayor):
  - a. has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or
  - b. has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- (2) Subclause (1) does not apply if all of the members of the Council are members of the committee.

**Note:** *Leave of absence from Council Meetings is covered under clause 11 of this Code. (cl 235A Regs).*

## **50 Reports of committees (cl 269 Regs)**

- (1) If in a report of a committee of the Council distinct recommendations are made, the decision of the Council may be made separately on each recommendation.
- (2) The recommendations of a committee of the Council are, so far as adopted by the Council, resolutions of the Council.

## **51 Disorder in committee meetings (cl 270 Regs)**

The provisions of the Act, the Regulation and this Code relating to the maintenance of order in Council meetings apply to meetings of committees of the Council in the same way as they apply to meetings of the Council.

## 52 Committee may expel certain persons from its meetings (cl 271 Regs)

- (1) If a meeting or part of a meeting of a committee of the Council is closed to the public in accordance with clause 55(2), the committee may, by resolution, expel from the place where the meeting is being held any person who is not a Councillor.
- (2) If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the Council for the purpose, may remove the person from, and, if necessary, restrain the person from re-entering that place.

## PART 6 - PECUNIARY INTERESTS

### 53 Pecuniary interest

- (1) For the purposes of this Part, a pecuniary interest and the effects and requirements when a pecuniary interest arises is to be as defined in the relevant provisions of the Local Government Act, 1993.

**Note:** Council's Conflict of Interest Policy should also be referred to for further information on pecuniary interests.

- (2) A conflict of interests can be of two types:
  - a. Pecuniary – An interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated. (S442 and S443).
  - b. Non-Pecuniary – A private or personal interest the Council official has that does not amount to a pecuniary interest as defined in the Act (for example; a friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).
- (3) Where a Councillor or a member of a Council Committee who has a pecuniary interest in any matter before the Council, and who is present at a meeting where the matter is being considered, must identify the nature of the interest to the meeting as soon as practical. Generally this would be when the Chairperson of the Meeting calls for "Disclosure of nature and interest in matters before the meeting".
- (4) When a Councillor or Council Official declares a Pecuniary Interest he / she must vacate the room and not take part in any discussion or consideration of the matter.
- (5) When a Councillor or Council Official declares a non-pecuniary interest he / she must determine the most appropriate course of action to deal with the conflict as specified in Council's Code of Conduct. If the Councillor does not leave the meeting, the Councillor must vote on the matter otherwise it will be taken as the Councillor having voted against the motion.
- (6) Clauses (3) and (4) do 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 part of the council's area, or
    - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and
  - b. the councillor made a special disclosure under Schedule 3A (Regs) in relation to the interest before the commencement of the meeting.

## **PART 7 - PRESS AND PUBLIC**

### **54 Public notice of meetings**

- (1) The Council must give notice to the press and public of the times, dates and places of its meetings and meetings of those of its committees of which all the members are Councillors.
- (2) The Council and each such committee must have the business paper available for the press and public prior to and at each meeting for inspection and taking away by persons of the business paper for the meeting. This requirement does not apply to a business paper for a matter that, in the opinion of the General Manager, is likely to be considered when the meeting is closed to the press and public and in this case the agenda for the meeting is to indicate that the relevant item of business is of such a nature (S9[2]).
- (3) The business paper is to be available to the press and public as nearly as possible to the time they are available to Councillors and are to be available free of charge.

### **55 Attendance at meetings of the Council**

- (1) The press and public are entitled to attend a meeting of the Council and those of its committees of which all its members are Councillors, except as provided by this clause.
- (2) The Council or such a committee may close to the press and public only so much of its meeting as comprises the receipt or discussion of any of the following:
  - a. personnel matters concerning particular individuals (other than Councillors),
  - b. the personal hardship of any resident or ratepayer,
  - c. information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,
  - d. commercial information of a confidential nature that would, if disclosed:
    - i. prejudice the commercial position of the person who supplied it, or
    - ii. confer a commercial advantage on a competitor of the Council, or
    - iii. reveal a trade secret,
  - e. information that would, if disclosed, prejudice the maintenance of law,
  - f. matters affecting the security of the Council, Councillors, Council staff or Council property,
  - g. advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
  - h. Information concerning the nature and location of a place or an item of Aboriginal significance on community land,
  - i. Alleged contraventions of any code of conduct requirements applicable under section 440.
- (3) The grounds on which a meeting is closed must be specified in the decision to close the meeting and recorded in the minutes of the meeting and specify the following:
  - a. the relevant provisions of the Act;
  - b. the matter that is to be discussed during the closed part of the meeting;
  - c. the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.
- (4) A person (whether a Councillor or another person) is not entitled to be present at a meeting if expelled from the meeting by a resolution of the meeting.
- (5) Nothing in this clause prevents any limitation being placed on the number of members of the public admitted to a meeting of the Council or a committee of the Council, provided such limitation is for reason of safety or security.



*Note: Section 10(A) of the Local Government Act*

## **56 Public Participation at Council / Committee Meetings**

- (1) A member of the public wishing to address the Council (or a Committee of the Council) is required to submit a request in writing not later than 48 hours prior to the meeting and, if approval is granted by the Mayor or Chairperson of the relevant Committee, the applicant (or one person representing a group or organisation); or if there are opposing views, up to two speakers representing each viewpoint be permitted to address that meeting of the Council (or Committee of the Council) for three minutes at the time specified by the Mayor or Chairperson; except that the Mayor or Chairperson, at their discretion, may permit the immediate consideration by the Council or Committee in relation to an urgent matter. In the event that the Chair is unavailable to approve requests to speak, the General Manager may do so, in order to advise the applicants that their request has been approved before the meeting.
- (2) In relation to Planning Reports, a member of the public wishing to address the Council (or a Committee of the Council) is required to register 15 minutes prior to the commencement of the meeting.

**Note:** *Subclause (3) and (4) below are explanatory notes and do not form part of this Code. The explanatory notes will assist a member of the public to understand the manner in which the Mayor or Chairperson of the relevant Council or Committee meeting is likely to exercise the discretion to approve public participation.*

- (3) No more than four (4) speakers may be permitted to address a meeting of the Council (or Committee of the Council) on each occasion, except in relation to planning reports.
- (4) To ensure a broad range of representation, individual members of the public wishing to address the Council (or Committee of the Council) will be limited to three (3) addresses each calendar year, except in relation to planning reports.
- (5) Speakers shall be scheduled to speak prior to consideration of the matter on which the speaker wishes to address the Council.
- (6) Questions or addresses from the public gallery
  - a. shall not be allowed in respect to matters being considered by Council (or Committee of the Council) unless prior approval has been granted by the Mayor or Chairperson.
  - b. shall not be allowed in respect to matters not on the meeting agenda.
- (7) That should speakers address Council on a matter which is subsequently deferred for the purposes of a Councillor inspection or further consideration, that it be the policy that no further representations be permitted by members of the public on that matter.
- (8) Should a Councillor indicate that a motion to defer will be proposed, the Chair shall give those members of the public who have registered to speak the opportunity to reserve their right to speak until such time as the matter is referred back to Council.
- (9) That in the event that a development application (as a planning report) is considered at a Council meeting at which members of the public address the Council, and the Council resolves to request amendments to the proposal, then members of the public be permitted to speak at the meeting at which the matter is further considered if that consideration relates to a redesigned structure or substantially amended structure.
- (10) All speakers who address Council will be identified by name in the minutes for the Council Meeting or committee at which the person spoke, and whether the speaker was for or against the recommendation on the matter under consideration.

- (11) Speakers will be scheduled to speak with those 'against' speaking first, followed by any speakers 'in favour' of a matter.

*Note: Hurstville City Council actively encourages participation of residents in the decision making process and is happy to hear from people regarding matters raised in the business paper, subject to the provisions of clause 28 in respect of Questions With Notice.*

## **57 Public access to correspondence and reports**

- (1) The Council and a committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.
- (2) This clause does not apply if the correspondence or reports:
  - a. relate to a matter that was received or discussed; or
  - b. were laid on the table at, or submitted to, the meeting, while the meeting was closed to the public.

## **PART 8 - MISCELLANEOUS**

### **58 Urgent Minor Matters**

- 1) The General Manager be authorised to approach Councillors in cases of urgency where a decision is required on a matter prior to the next available Council Meeting on the basis that the approach is by email and to all Councillors.
- 2) The General Manager must receive a majority of support, by email, before enacting any action, with a report to go to the next available Council meeting outlining the action taken.
- 3) Should any Councillor not support the proposed action and they are of a strong view that the proposed action should not be taken, Councillors have the right to advise their intention to submit a rescission motion in accordance with the existing provisions described in Clause 34 of this Code of Meeting Practice. Should this occur, and a formal rescission motion is received, no action would be taken and the matter would be submitted to the next available Council meeting for consideration.

*Note: It should be noted that the enacting of a 'rescission motion' under this process does not substitute, prohibit or take the place of the provisions of Cl 34 Rescinding and Altering Resolutions once the matter has been considered and determined by Council.*

### **59 Information relating to proceedings at closed meetings not to be disclosed (S664)**

- (1) If a meeting or part of a meeting of the Council or a committee of the Council is closed to the public in accordance with clause 55(2), a person must not, without the authority of the Council or the committee, disclose, otherwise than to the Council or to a Councillor, information with respect to the discussion at, or the business of, the meeting.
- (2) This clause does not apply:
  - a. to the report of a committee of the Council when presented to the Council;
  - b. to the disclosure of information referred to in subclause (1) by a Councillor or employee of the Council in the course of the Councillor's or employee's duties.

### **60 Inspection of the minutes of the Council or a committee**

- (1) Copies of the minutes of the Council or committee of the Council are made available to the public on-line.

- (2) Should an inspection of hard copy minutes of the Council or committee of the Council be requested, the inspections is to be carried out under the supervision of the General Manager or Public Officer or an employee of the Council designated by the General Manager or Public Officer to supervise inspections of those minutes.
- (3) The General Manager must ensure that the minutes of the Council and any minutes of a committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

## **61 Recording of meeting of the Council or a committee prohibited**

- (1) A person may use a tape recorder to record the proceedings of a meeting of a council or committee of the council **only with the authority of the council or committee.**
- (2) A person may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of a Council or a Committee of a Council for using or having used a recording device in contravention of this clause.
- (3) If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council, or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.
- (4) In this clause, **tape recorder** includes a video camera, mobile phone and any electronic device capable of recording speech.

*Note: CI 273 Regs*

## **62 Recording of meeting by the Council or a committee**

- (1) Audio recordings are not required of Council or any Committee Meetings. However, if recordings of any meetings are made then:
  - a. audio recordings of meetings will only be used for verifying the accuracy of minutes;
  - b. audio recordings of meetings will not be made available to the public or disclosed to any third party except as allowed or exempted under sections 18, 19 and/or 23 of the Privacy and Personal Information Act 1998 or by any other law, e.g. Government Information (Public Access) Act 2009.
  - c. audio recordings of meetings will be destroyed as soon as their original purpose is served or immediately after three months since their creation (whichever is the later), except where retention for a longer period is otherwise required or recommended under the State Records Act 1998 or for any other lawful purpose.
  - d. appropriate signage will be displayed in the public gallery or at the public entrance to council meetings, as well as verbal statements at the commencement of each meeting, to notify the public of the matters required under s10(a)-(e) of the Privacy and Personal Information Act 1998.
- (2) In this clause, **audio recordings** include a tape recorder, video camera, mobile phone or any electronic device capable of recording speech.

## **63 Certain circumstances do not invalidate Council decisions (S374)**

Proceedings at a meeting of the Council or a Council committee are not invalidated because of:

- a. a vacancy in a civic office;

- b. a failure to give notice of the meeting to any Councillor or a committee member;
- c. any defect in the election or appointment of a Councillor or a committee member;
- d. a failure of a Councillor or a committee member to disclose a pecuniary interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a Council or a committee meeting in accordance with section 451;
- e. a failure to comply with the Code of Meeting Practice.

## **64 Referral of Planning and Development Matters to Council**

If any Councillor notifies the General Manager in writing at any time prior to determination of a matter under consideration and they seek to have the matter considered by full Council then:

- a) The matter shall be referred to Council for its consideration and determination;
- b) The Councillor referring the matter to Council shall state, in writing, the specific reasons for referral, with such reasons to be communicated to all Councillors prior to the meeting. The source Councillor and reasons for referral are to be included in any report to Council.

Where the notice of referral provides that the reason for referral is to allow a site inspection by Councillors, the General Manager be authorised to arrange the site inspection in consultation with the Mayor, prior to the matter being referred for consideration by Council. The arrangements for a site inspection are also to include notification to all Councillors.

## **65 Amendment of Code**

- (1) Changes to the Act or Regulation will automatically impact Council's Code of Meeting Practice. If inconsistent, the provisions of the Meeting Code must be changed to match the Act and the Regulation.
- (2) The Code is automatically amended as a result of changes to the Act or Regulation. These changes do not require public notification under S361 to S363 of the Act, given that these amendments would follow best practice requirements.
- (3) Any amendment to the additional provisions provided by the Council in its Meeting Code may require public notification in accordance with the relevant sections of the Act.
- (4) The Code of Meeting Practice shall be reviewed within twelve (12) months of a general election or on an "as needs" basis.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

**GEORGES RIVER**  
COUNCIL




---

|                               |  |
|-------------------------------|--|
| <b>Policy/Code Title:</b>     | <b>Policy – Payment of Expenses and the Provision of Facilities to the Mayor and Councillors</b> |
| <b>Policy/Code Number:</b>    | GRC P001.001   |
| <b>Directorate:</b>           | Governance and Corporate Services  |
| <b>Department:</b>            | Governance   |
| <b>Strategic Direction/s:</b> |  |
| <b>Strategic Goal/s:</b>      |  |
| <b>Responsible Officer:</b>   | Manager Governance   |
| <b>Relevant Legislation:</b>  | Local Government Act s252, 253 & Regulation cl.217   |
| <b>Adoption Date:</b>         | Adopted 19 May 2016  |
| <b>Resolution Number:</b>     | Min No. 9/2016   |
| <b>Amendment History:</b>     |  |
| <b>Review Year:</b>           | Annual, five months after the end of each financial year.  |

---

**Note:** Any reference in this policy to Mayor and Councillors is to be taken to be a reference to the Administrator.

**Note:** Policy details may change prior to review date due to legislative changes etc, therefore this document is uncontrolled when printed.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### Policy Statement

| <b>CONTENTS</b>  | <b>Page</b> |
|--|-------------|
| <b>PART 1 INTRODUCTION .....</b>   | <b>4</b>    |
| <b>1.1 Title and Commencement of the Policy .....</b>                        | <b>4</b>    |
| <b>1.2 Purpose of the Policy .....</b>                                       | <b>5</b>    |
| <b>1.3 Objectives and Scope of the Policy .....</b>                          | <b>5</b>    |
| Conduct .....  | 5           |
| Accountability and transparency.....   | 5           |
| <b>1.4 Making and Adoption of the Policy.....</b>                            | <b>6</b>    |
| <b>1.5 Legislative Provisions .....</b>                                      | <b>7</b>    |
| Local Government Act.....  | 7           |
| <b>1.6 Other Government Policy Provisions.....</b>                           | <b>10</b>   |
| i. DLG Guidelines for payment of Expenses and Provisions of Facilities... .. | 10          |
| ii. Georges River Council’s Code of Conduct.....                             | 10          |
| iii. DLG Model Code of Conduct.....  | 11          |
| iv. DLG Circulars to Councils.....   | 11          |
| v. ICAC Publications.....  | 11          |
| <b>PART 2 PAYMENT OF EXPENSES .....</b>                                      | <b>12</b>   |
| <b>GENERAL PROVISIONS.....</b>   | <b>12</b>   |
| <b>2.0 Payment of expenses generally .....</b>                               | <b>12</b>   |
| Allowances and Expenses.....   | 12          |
| Establishment of monetary limits and standards.....                          | 12          |
| No private benefit unless payment made .....                                 | 13          |
| No use of council resources for political purposes.....                      | 13          |
| Gifts and Benefits.....  | 13          |
| Participation, equity and access .....                                       | 14          |
| Approval Arrangements .....  | 14          |
| Dispute Resolution.....  | 14          |
| Reimbursement and Reconciliation of Expenses.....                            | 14          |
| Payment in advance .....   | 15          |
| <b>SPECIFIC EXPENSES FOR COUNCILLORS AND THE MAYOR .....</b>                 | <b>15</b>   |
| <b>2.1 Attendance at Seminars and Conferences .....</b>                      | <b>15</b>   |
| <b>2.2 Training and Educational Expenses .....</b>                           | <b>19</b>   |

## **GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER**

---

|   |           |
|---|-----------|
| <b>2.3 Local Travel Arrangements and Expenses.....</b>                                    | <b>19</b> |
| <b>2.4 Travel Outside the LGA including Interstate Travel.....</b>                        | <b>21</b> |
| <b>2.5 Overseas Travel / Friendship City Relationships .....</b>                          | <b>21</b> |
| <b>2.6 Legal Expenses and Obligations.....</b>  | <b>22</b> |
| <b>2.7 Security and Obligations.....</b>  | <b>23</b> |
| <b>2.8 Insurance Expenses and Obligations .....</b>                                       | <b>24</b> |
| <b>2.9 Telecommunications / Internet .....</b>  | <b>24</b> |
| <b>2.10 Care and Other Related Expenses.....</b>  | <b>25</b> |
| <b>2.11 Spouse and Partner Expenses .....</b>   | <b>26</b> |
| <b>ADDITIONAL MAYORAL EXPENSES.....</b>   | <b>27</b> |
| <b>2.12 Additional Allowances and Expenses for the Mayor .....</b>                        | <b>27</b> |
| <b>PART 3 PROVISION OF FACILITIES .....</b>   | <b>28</b> |
| <b>3.1 Provision of Facilities Generally .....</b>  | <b>28</b> |
| <b>3.2 Private Use of Equipment and Facilities.....</b>                                   | <b>28</b> |
| <b>PROVISIONS OF FACILITIES, EQUIPMENT AND SERVICES FOR COUNCILLORS.....</b>              | <b>28</b> |
| <b>3.3 General Shared Facilities for Councillors .....</b>                                | <b>28</b> |
| <b>3.4 Facilities, Equipment and Services Required to be Returned .....</b>               | <b>30</b> |
| <b>3.5 Facilities, Equipment and Services Not Required to be Returned.....</b>            | <b>31</b> |
| <b>PROVISION OF ADDITIONAL EQUIPMENT, FACILITIES AND SERVICES FOR THE MAYOR .....</b>     | <b>31</b> |
| <b>3.6 Provision of Additional Facilities, Equipment &amp; Services for the Mayor ...</b> | <b>31</b> |
| <b>3.7 Mayoral Equipment, Facilities &amp; Services Not Required to be Returned ..</b>    | <b>33</b> |
| <b>PART 4 OTHER MATTERS .....</b>   | <b>34</b> |
| <b>4.1 Acquisition and Returning of Facilities and Equipment by Councillors.....</b>      | <b>34</b> |
| <b>4.2 Status of the Policy .....</b>   | <b>34</b> |

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### Part 1 - INTRODUCTION

#### 1.1 Title and Commencement of the Policy

This policy shall be cited as the policy for the Payment of Expenses and Provision of Facilities to the Mayor and Councillors.

This policy shall ensure that Councillors are reimbursed for expenses reasonably incurred in their performance of their role as a Councillor. Only those entitlements specifically described in this policy shall be provided by the Council. Any provision outside of this policy requires Council's approval at an open Council meeting.

This policy was adopted by Council on 19 May 2016 and is effective from that date.

#### Definitions

In this policy, unless otherwise stated, the expression "Councillor" refers to all Councillors of Georges River Council including the Mayor and Deputy Mayor.

In this policy the expression "year of term" means the twelve (12) month period commencing on the date of election to Council of a Councillor and every subsequent twelve (12) month period of the term.

In this policy the expression "year" means the financial year being the twelve (12) month period commencing on 1<sup>st</sup> July to the following 30<sup>th</sup> June.

The Act: The Local Government Act 1993.

The Regulation: The Local Government (General) Regulation 2005.

Expenses: Payments made by Council to reimburse Councillors for reasonable costs or charges incurred or to be incurred for discharging their civic functions. Expenses must be outlined in Council's policy and may be either reimbursed to a Councillor or paid directly by Council for something that is deemed to be a necessary expense to enable them to perform their civic functions. Expenses are separate and additional to annual fees.

Facilities: Equipment and services that are provided by Council to Councillors to enable them to perform their civic functions with relative ease and at a standard appropriate to their professional role as Councillors.

Functions of civic office / civic functions: Functions that Councillors are required to undertake to fulfil their legislated role and responsibilities for the Council that should result in a direct benefit for the Council and/or for the local government area.



## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### 1.2 Purpose of the Policy

The purpose of this policy is to ensure that there is accountability and transparency in the reimbursement of expenses incurred or to be incurred by Councillors. The policy also ensures that the facilities provided to assist Councillors to carry out their civic duties are reasonable.

### 1.3 Objectives and Scope of the Policy

The objective of this policy is to describe the scope and extent of the expenses that may be claimed by, and equipment and facilities provided to, the Mayor and Councillors so that these costs are reasonable and appropriate for payment by Council.

In applying the provisions of the legislation to Georges River Council, it is considered that Council's policy should provide for the payment of appropriate expenses and the provision of the necessary facilities to ensure that:

- a) The Mayor, as the first citizen of the Council's area, as the leader of the governing body of the Council and as the principal spokesperson on Council policy is provided with a standard and range of facilities appropriate to the importance of the office.
- b) The Councillors of Georges River Council in their roles as members of the governing body of the Council and as elected persons are reimbursed for expenses reasonably incurred in the performance of the role and are provided with a standard and range of facilities to assist in discharging the functions of Civic office.
- c) Councillors are not out-of-pocket or do not suffer financial hardship as a result of performing and discharging their Civic functions and duties

This policy aims to uphold and demonstrate the following key principles:

#### Conduct

Councillors must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out their functions under the Local Government Act 1993 ("the Act") or any other Act. This is required by section 439 of the Local Government Act 1993 and reinforced in the provisions of Georges River Council's Code of Conduct. Councillors should in particular, be mindful of the provisions of the Anti-Discrimination Act 1977.

#### Accountability and transparency

The provisions in this policy must ensure there is accountability and transparency in the reimbursement of expenses incurred or to be incurred by Councillors and ensure the expense is clearly identified in the policy. The details and range of benefits provided to Councillors by the Council shall be clearly stated in this policy and be fully transparent and acceptable to the local community.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### 1.4 Making and Adoption of the Policy

This policy is made pursuant to Sections 252 - 254 of the Local Government Act 1993, in accordance with clause 403 of the Local Government (General) Regulation 2005 (“the Regulation”) and the directions of the Division of Local Government Circular No. 09-36 (7/10/09) “Guidelines for the Payment of Expenses and the Provision of Facilities to Mayors and Councillors.”

Council is required to adopt the policy annually for the payment of expenses and the provision of facilities to the Mayor, Deputy Mayor and other Councillors (Refer Section 252 of the Act).

Council is required on an annual basis to review and submit its policy to the Director-General of the Division of Local Government within 28 days of adoption by Council, even if Council proposes to adopt an unchanged policy.

Current policies must be submitted to the Division of Local Government by 30 November each year. Therefore, Council shall within 5 months after the end of each financial year adopt this policy.

Prior to annually adopting the policy, public notice must be given and public submissions invited for 28 days. Council must then consider all submissions received and make any appropriate changes to the policy (Refer Section 253 of the Act).

Public notice is not necessary if the proposed changes are not substantial and it is not part of the annual adoption process i.e. if there are only minor changes to the wording of the policy, changes to monetary provisions or rates that are less than 5%, or minor changes to the standard of equipment and facilities to be provided.

Substantial amendments to the policy that could include larger changes to monetary limits than the limit noted above, and/or major changes to the standard of provision of equipment and facilities, will require public notice of the amendment.

Any new category of expenses, facilities and equipment included in this policy will also require public notice.

This policy, as adopted, applies to all Administrators of Council, including the General Manager, Directors and staff and must be adhered to.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### 1.5 Legislative Provisions

The relevant legislative provisions to this policy are set out below. In this legislation the expression “year” means the period from 1 July to the following 30 June.

#### Local Government Act 1993

**Section 252 (Payment of Expenses and Provisions of Facilities)** states:

- (1) Within **5 months** after the end of each year, a Council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the Mayor, the Deputy Mayor and the other Councillors in relation to discharging the functions of civic office.
- (2) The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the Mayor or a Councillor of a facility provided by the Council to the Mayor or Councillor.
- (3) A Council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the Mayor, the Deputy Mayor or a Councillor otherwise than in accordance with a policy under this section.
- (4) A Council may from time to time amend a policy under this section.
- (5) A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.

**Section 253 (Requirements that Council must undertake before a Policy concerning Expenses and Facilities can be Adopted or Amended)** states:

- (1) A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.
- (2) Before adopting or amending the policy, the Council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.
- (3) Despite subsections (1) and (2), a Council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the Council is of the opinion that the proposed amendment is not substantial.
- (4) Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a Council is to forward to the Director-General:
  - (a) a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

- (b) a statement setting out, for each submission, the Council's response to the submission and the reasons for the council's response, and
  - (c) a copy of the notice given under subsection (1).
- (5) A Council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the Council proposes to adopt a policy that is the same as its existing policy.

### **Section 254 Decision to be made in Open Meeting**

Section 254 requires that a part of a Council or Committee Meeting, which considers the adopting or amending of such a policy must not be closed to the public.

### **Section 232 Role of a Councillor** states:

- (1) The role of a councillor is, as a member of the governing body of the council:
- to provide a civic leadership role in guiding the development of the community strategic plan for the area and to be responsible for monitoring the implementation of the council's delivery program
  - to direct and control the affairs of the council in accordance with this Act
  - to participate in the optimum allocation of the council's resources for the benefit of the area
  - to play a key role in the creation and review of the council's policies and objectives and criteria relating to the exercise of the council's regulatory functions
  - to review the performance of the council and its delivery of services, and the delivery program and revenue policies of the council
- (2) The role of a councillor is, as an elected person:
- to represent the interests of the residents and ratepayers
  - to provide leadership and guidance to the community
  - to facilitate communication between the community and the council.

### **Section 23A Guidelines - Director- General of the Division of Local Government**

Section 23A makes provision for the Director-General of the Division of Local Government to prepare, adopt or vary guidelines that relate to the exercise by a Council of any of its functions. It also requires that a Council must take the relevant guidelines into consideration before exercising any of its functions.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### Section 428 Local Government Act 1993 - Annual Reports

Information is to be submitted to the Division of Local Government by 30 November each year.

#### Government Information (Public Access) Act 2009 [GIPA Act]

GIPA Act provides that this policy must be available to the public via Council's website and that the public is also able to inspect this policy during office hours at the Council, and at no charge, the current version and the immediately preceding version of the Council's Expenses and Facilities Policy. The public are also entitled to a copy of the policy either free of charge or on payment of a reasonable copying charge.

#### Local Government (General) Regulation 2005

##### Clause 217 (1) (a) and (1) (a1) (Additional information for inclusion in Annual Report)

Information regarding overseas travel and Councillor expenses is to be provided for each financial year and submitted to the Division of Local Government by 30 November each year.

##### Clause 403 (Payment of Expenses and Provision of Facilities) states:

A policy under section 252 of the Local Government Act 1993 must not include any provision enabling a Council:

- a) to pay any Councillor an allowance in the nature of a general expense allowance, or
- b) to make a motor vehicle owned or leased by the Council available for the exclusive or primary use or disposition of a particular Councillor other than a Mayor.

**Note:** This policy excludes annual fees paid to the Mayor and Councillors in accordance with Sections 248-251 of the Local Government Act 1993. Those fees are separately determined each year based on the Determination of the Local Government Remuneration Tribunal.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### 1.6 Other Government Policy Provisions

This policy has been prepared with reference to other Government and Council policy provisions as follows:-

- i. DLG Guidelines for Payment of Expenses and Provision of Facilities  
Division of Local Government Circular No. 09-36, 7 October 2009, Guidelines for the Payment of Expenses and the Provision of Facilities to the Mayor and Councillors (These guidelines replace Circular No. 06-57 Guidelines for the Payment of Expenses and Provision of Facilities to the Mayor and Councillors).
- ii. Georges River Council's Code of Conduct  
Georges River Council's Code of Conduct is consistent with the Model Code of Conduct for Local Councils in NSW, Department of Local Government – June 2008.

The following section Use of Council Resources from Georges River Council's Code of Conduct is particularly relevant to this policy:

- 10.13 You must use Council resources ethically, effectively, efficiently and carefully in the course of your public or professional duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.
- 10.15 **You must be scrupulous in your use of Council property including intellectual property, official services and facilities and should not permit their misuse by any other person or body.**
- 10.16 You must avoid any action or situation which could create the impression that Council property, official services or public facilities are being improperly used for your own or any other person or body's private benefit or gain.
- 10.17 The interests of a Councillor in their re-election is considered to be a personal interest and as such the reimbursement of travel expenses incurred on election matters is not appropriate. Council letterhead, Council crests and other information that could give the impression it is official Council material must not be used for these purposes.
- 10.18 **You must not convert any property of the Council to your own use unless properly authorised.**

**GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER**

---

- iii. DLG Model Code of Conduct for Local Councils in NSW (2008)
- iv. DLG Circulars to Councils
  - Circular 05-08 Legal Assistance for Councillors and Council Employees (9 March 2005)
  - Circular 02-34 Unauthorised Use of Council Resources.
- v. ICAC Publications

ICAC Publication No Excuse for Misuse of Council Resources (Guidelines 2), November 2002. This publication is available on the ICAC website at [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au).

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### Part 2 - PAYMENT OF EXPENSES GENERAL PROVISIONS

#### 2.0 Payment of Allowances and Expenses Generally

##### Allowances and Expenses

No provision will be made for the payment of an allowance in the nature of a general expense allowance. (DLG Circular 09/36 – 07/10/09).

This policy is intended to cover most situations where a Councillor reasonably incurs expenses in discharging the functions of civic office.

The Local Government Remuneration Tribunal has adopted the principle that expenses reasonably incurred by Councillors are outside provisions made under the annual fee determinations.

Council may only pay a Deputy Mayor part of the Mayor's annual fee where a Deputy Mayor demonstrably acts in the role of the Mayor. Such payment should only be done at the direction of the Council, and the Council must deduct any amount paid to the Deputy Mayor from the Mayor's annual fee.

##### Establishment of monetary limits and standards

This policy identifies and publishes monetary limits and standards applicable to the payment of various expenses to Councillors. By doing so members of the public are aware of the expected cost of providing services to Councillors and provides openness and transparency in the provision of such services.

Monetary limits prescribed in this policy set out the maximum amount payable in respect of any facility or expense.

All monetary amounts stated are exclusive of GST.

Where applicable the standard of any equipment, facility or service to be provided shall be to the maximum standard prescribed in this policy.

Any additional cost incurred by a Councillor in excess of any monetary limit set shall be considered a personal expense that is the responsibility of the Councillor. The only exception to this monetary limit is for replacement of faulty equipment.

Councillors will be responsible to replace or pay the excess where an item is covered by insurance for equipment which has been stolen or lost with the exception of one (1) replacement mobile phone per year.

Only those entitlements specifically described in this policy shall be provided by Council. Any provision outside of this policy requires Council's approval at an open Council meeting.



## **GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER**

---

### No private benefit unless payment made

Councillors should not obtain private benefit from the provision of equipment and facilities while on Council business. However it is acknowledged that incidental use of Council equipment and facilities may occur from time to time. Such incidental private use is not subject to a compensatory payment back to Council.

Where more substantial private use does occur the Act provides that a payment may be made to cover the level of that private use.

### No use of council resources for political purposes

Equipment, facilities and services provided under this policy shall not be used to produce election material or for any other political purpose or interest.

A person's re-election is considered to be a personal interest. Official Council material such as letterhead, publications, websites as well as Council services and forums must not be used for such personal interest. Situations in which the appearance may be given that these are being used for such purposes are also to be avoided.

The fundraising activities of political parties, including political fundraising events, are considered to be personal interests. Council will not pay expenses or provide facilities to Councillors in relation to supporting and/or attending such activities and events.

### Gifts and Benefits

On occasion, it is appropriate for Councillors to give a gift or benefit (for example, on a Council business related trip when receiving visitors). These gifts and benefits should be of token value, ie. valued under \$50. Clause 8.1 of the Division of Local Government Model Code of Conduct (June 2008) outlines gifts and benefits of token value to include:

- Free or subsidised meals, beverages or refreshments provided in conjunction with:
  - i) the discussion of official business
  - ii) council work related events such as training, education sessions, workshops
  - iii) conferences
  - iv) council functions or events
  - v) social functions organised by groups such as council committees and community organisations
- Invitations to and attendance at local social, cultural or sporting events.
- Gifts of single bottles of reasonably priced alcohol to individual council officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address).
- Ties, scarves, coasters, tie pins, diaries chocolates or flowers.

## **GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER**

---

### Participation, equity and access

The expenses policy provisions shall be non-discriminatory (taking into account individual differences) and used in an equitable manner to enable the full participation by Councillors from different walks of life.

The provisions of this policy shall be at an appropriate level to encourage members of the community, particularly under-represented groups such as those in primary caregiver roles, to seek election to Council by ensuring that they would not be financially or otherwise disadvantaged in undertaking the civic duties of a Councillor.

This policy shall also take account of, and make reasonable provision for, the special needs of Councillors to allow access to the appropriate parts of Council premises and facilities, and maximise participation in the civic duties and business of Council.

### Approval Arrangements

When approving trips or attendances at conferences by Councillors no one (1) person should be the sole decision maker.

The following approval arrangements should occur prior to attending conferences or taking trips:

- Approval for trips and attendance at conferences etc. must be approved by Council resolution at an open Council Meeting.
- Spouse and Partner Expenses (refer Section 2.10 of this policy). Council will meet the reasonable costs referred to in Section 2.10 of spouses, partners and accompanying persons when they accompany the Mayor or Councillors under the circumstances listed in Section 2.10.

### Dispute Resolution

Where possible, approval for expenses under this policy is to be sought and gained prior to expenses being incurred. In the event that a Councillor disputes the non-payment, or under payment, of an expense claim or the provision of facilities, the Councillor must submit in writing the details of their expense claim or request for facilities, to the General Manager.

The claim or request will be investigated, and the Councillor will be informed of the decision in writing.

Should the Councillor not accept the decision, the matter will be referred to a full Council Meeting for determination.

### Reimbursement and Reconciliation of Expenses

This policy only authorises payment of reimbursement of actual costs and expenses incurred by Councillors in carrying out their civic duties. All claims for reimbursement of expenses incurred must be made on the approved claim form, supported by

## **GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER**

---

appropriate receipts and or tax invoices and be submitted to the General Manager no later than three (3) months after the expenses were incurred.

### Payment in advance

Councillors may request payment in advance in anticipation of expenses to be incurred in attending conferences, seminars and training away from home. Councillors may also request an advance payment for the cost of any other service or facility covered by this policy. However, Councillors must fully reconcile all expenses against the cost of the advance within one (1) month of incurring the cost and/or returning home. The Councillor must submit the details to the General Manager for verification and pay back to Council any unspent money.

The maximum value of a cash advance is five hundred dollars (\$500).

No allowance type payment will be paid in any circumstances.

## **SPECIFIC EXPENSES FOR COUNCILLORS AND THE MAYOR**

### **2.1 Attendance at Seminars and Conferences**

Council shall meet expenses incurred by Councillors attending conferences, seminars and training courses within Australia that have been authorised by Council resolution at an open Council Meeting.

#### Who may attend?

Councillors may be authorised to attend conferences, seminars, workshops or other functions specific to their civic duties where prior approval has been sought.

In addition, the Mayor may nominate a substitute Councillor in his/her absence to attend functions within the Council area or Sydney metropolitan area on those occasions where the Mayor is unable to be in attendance. On such occasions and where the substitute is accompanied by his/her spouse or partner, the cost of the spouses / partner's attendance ticket or meal will be met by Council.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### What conferences may be attended?

The conferences to which this policy applies shall generally be confined to:

- Local Government Association (LGA) and Australian Local Government Association (ALGA) conferences.
- Special “one-off” conferences called or sponsored by the LGA and/or ALGA on important issues.
- Annual conferences of all the major professions in Local Government.
- Australian Sister City conferences.
- Regional Organisation of Council conferences.
- Conferences, which provide further training and development of Councillors, or which relate to our impact upon the Council’s functions.
- Any meetings or conferences of organisations or bodies on which a Councillor of the Council may be elected, or appointed to be, a delegate or member of a Committee or the L.G.A. or other professional or lobby group i.e. SSROC, MPLA etc.

### Interstate

For all interstate trips, prior approval must be sought. This must be approved by resolution at an open Council Meeting (Refer 2.7 Interstate Travel Arrangements of this policy).

The application for approval from individual Councillors for attendance at interstate conferences, seminars and training courses **shall be in writing** outlining the full details of the course, seminar, conference including:

- itinerary costs
- reasons for attendance
- the benefits for the Council and/or the local community.

After return from a conference, the Councillor/s or an accompanying staff member shall **provide a written report** to the Council on the aspects of the conference relevant to Council business and/or the community.

No written report is required for the Annual Conferences of the Local Government and Shires Associations.

### Overseas

Council should avoid overseas trips and international visits to Friendship City countries unless direct and tangible benefits can be established for the Council and the local community.

For all overseas trips approval needs to be sought at an open Council Meeting prior to the trip being taken (refer 2.5 Overseas Travel of this policy).

A Councillor, prior to undertaking an overseas trip on Council related business shall submit an application to the General Manager and the Mayor, submitting in their application full details of the trip including the following information: -

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

- Nominations of Councillors undertaking trip
- Purpose of trip and expected benefits
- Duration
- Itinerary
- Costs and approximate total costs for each trip
- Reasons for travel

Council shall make all necessary arrangements for the attendance of Councillors at the conference, seminar or training course.

Where the Councillor is being accompanied by another person Council shall also make all of the necessary arrangements for that person, when requested. Council shall meet only those costs relating to the attendance of that person as set out in 2.10 Spouses and Partner Expenses of this policy.

### **Council shall meet the following Costs for Attendance at Approved Conferences, Seminars and Training Courses: -**

#### **i. Registration fees**

Council shall meet the cost of the registration fee set by the organiser, including costs of related official lunches and dinners, and associated tours relevant to Council business.

#### **ii. Accommodation**

Councillors shall be accommodated in the hotel where the conference, seminar, or training course is being held or the nearest hotel to it that is of a similar standard, or as authorised by the host organiser where the conference is not located within the Sydney metropolitan area.

Accommodation shall be provided at a double room rate only including the night before the official opening of the conference and the night after where necessary to be met by the Council.

Accommodation will be booked and paid for by Council in advance or, where this is not possible, a claim for reimbursement shall be made no later than three (3) months after the expenses were incurred with the appropriate receipts / invoices attached.

#### **iii. Meals**

Council shall meet the cost of breakfast, lunch and dinner for Councillors where any of the meals are not provided as part of the conference, seminar, training course or similar function upon receipt of a claim form with appropriate receipts or invoices. Council shall also meet the cost of drinks accompanying the meals.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### iv. Transportation

Councillors attending a conference, seminar or training course shall travel by the most direct route and the most practical and economical mode of transport, subject to any personal medical considerations.

Travel by air will be by Economy Class.

Travel by train will be by First Class, including sleeping berths where necessary.

Travel by Taxi Cab / Private Vehicle, Council Vehicle or public transport can be used in relation to the above approved Conferences / Seminars for travel between:

- place of residence and airport,
- airport and approved accommodation
- approved accommodation and site of conference or official visit and
- where as a result of attending a conference, seminar or training course a Councillor visits another Council in the course of discharging the functions of civic office or to further the knowledge of local government, and the Councillor is travelling in a non Council-owned vehicle, Council shall meet the cost of transfer of the Councillor from the hotel to the Council premises visited and return, such costs not to exceed the cost of taxi fares.

If travelling by Council vehicle, a fuel card will be provided to approved Conferences / Seminars, the actual fuel costs incurred will be reimbursed (subject to the cost not exceeding the cost of an economy class airfare, if travel by vehicle is preferred).

Travel by private vehicle or hire vehicle (where Council vehicles are unavailable) shall be reimbursed in accordance with clause 14 of the Local Government State Award (subject to the cost not exceeding the economy class air fare as applicable).

### v. Incidental Expenses

Council shall reimburse reasonable out of pocket or incidental expenses associated with attending conferences, seminars or training courses, such as:

- telephone or facsimile calls,
- internet charges,
- laundry and dry cleaning,
- newspapers, and
- parking fees

upon the presentation of official receipts and / or the completion of the necessary claim forms.

Each Councillor is entitled to a maximum amount of one hundred dollars (\$100) per day for these types of expenses.

All advanced payments are required to be reconciled within one (1) month of actual expense or within one (1) month of returning home.

## **GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER**

---

### Attendance at dinners and other non-council functions

Council shall meet the cost of Councillors' attendance at dinners and other non-council functions, which provide briefings to Councillors from key members of the community, politicians and business where the function is relevant to Council's interest.

Council shall meet the cost of any component of the ticket to the function that is a donation to a registered charity but shall not meet the cost of any component of the ticket that is a donation to a political party, candidates' electoral fund or other private benefit.

Each Councillor is entitled to a maximum of two hundred dollars (\$200) per year of term for these types of expenses.

## **2.2 Training and Educational Expenses**

Any training and educational courses undertaken by Councillors shall be directly related to the Councillor's civic functions and responsibilities.

This training shall support and encourage an active learning process and skills development for Councillors to ensure they carry out their Council functions as effectively as possible. Training and professional skills development of Councillors is encouraged in accordance with the NSW Government policy and the Division's Councillor Induction and Professional Development Guide.

Councillors will be provided with computer software training where necessary to undertake Councillor duties. Course fees and software will be met by Council.

## **2.3 Local Travel Arrangements and Expenses**

All travel by councillors should be undertaken by utilising the most direct route and the most practicable and economical mode of transport (e.g. Council Vehicle, Private Vehicle, Hire Vehicle and Cab-Charge) subject to any personal medical considerations.

Local travelling expenses shall only be paid for travel on official business of the Council. The following are examples of official business of Council where transportation and travelling costs will be reimbursed:-

- a) Attendance by Councillors at meetings of community groups whose activities encompass all or part of Georges River Council's Local Government Area and where the venue of such meeting may be either inside or outside Georges River Council's Local Government Area.
- b) Attendance at social functions or meetings as a representative of the Mayor or Council, when requested to do so by the Mayor.
- c) Attendance at social functions or meetings where the invitation or opportunity to attend the functions or meetings would not, in the normal course of events,

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

have been extended to Councillor/Councillors concerned had it not been for their position as a Councillor within the Council.

- d) Inspection of works or properties within Georges River Council's Local Government Area as a result of a request from a resident.
- e) Travel as a result of the Councillors attendance at a Council, Committee, Working Party meeting or where 3 or more Councillors are meeting on Council business.
- f) Attendance at conferences, seminars, training sessions, courses and meetings.

**Cab charge** can be used in relation to the above events/activities for travel between:

- place of residence and airport,
- airport and approved accommodation
- approved accommodation and site of conference or official visit and
- prior approved locations within and outside Georges River Council's Local Government Area for occasions when on Council business as authorised by Council or when performing the role of Councillor in accordance with Council's Code of Conduct.

The ceiling for expenditure on cab charge facilities is three thousand six hundred dollars (\$3,600) per year.

**Private vehicle** usage on official Council business will be reimbursed according to clause 14 of the Local Government Award (subject to being less than cab charge or an economy airfare).

Councillors when travelling by vehicle (where Council vehicle is not available) may claim the per kilometre allowance prescribed under Clause 14 of the Local Government Award or may use cab charge. The claim is to be submitted within three (3) months after the costs were incurred.

Council shall meet the reasonable cost of parking fees and road tolls. However, Council shall not meet the costs of traffic or parking fines.



## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### 2.4 Travel Outside the LGA including Interstate Travel

For any proposed travel by a Councillor on Council related business for interstate travel the approval of the Council in non-confidential session of a Council meeting is required. Approval shall be granted subject to any conditions the Council so determines. Council shall meet only those expenses that the Council so determines.

#### Interstate

For any proposed interstate travel by a Councillor on Council related business a Councillor shall submit an application to the General Manager and the Mayor including in their application full details of the trip including the following information: -

- Itinerary
- Costs and approximate total costs
- Purpose and reasons for travel

The proposal shall be considered and approved by resolution at an open Council Meeting. Refer 2.4 Attendance at Seminars and Conferences in this policy for approved costs.

All claims for payment are to be submitted within three (3) months after the costs were incurred. The claim shall include the amount claimed and the appropriate receipts / invoices.

Note: All approved interstate airfares shall be economy class standard or business class if medical reasons prevail.

### 2.5 Overseas Travel / Friendship City Relationships

Council should only take overseas trips and international visits to Friendship City countries where direct and tangible benefits can be established for the Council and the local community.

All costs associated with overseas travel by Councillors to Friendship City destinations are to be met by the Councillor(s) undertaking the travel.

For any proposed travel by a Councillor on Council related business for overseas/friendship city travel the approval of the Council in a meeting of the full Council (non-confidential session) is required prior to a Councillor undertaking the trip. A Mayoral Minute cannot be used to obtain Council approval for travel.

A Councillor prior to undertaking an overseas trip on Council related business shall submit an application to the General Manager and the Mayor, submitting in their application full details of the trip including the following information: -

- Nominations of Councillors undertaking the trip
- Purpose of the trip and expected benefits

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

- Duration
- Itinerary
- Costs and approximate total costs for each trip
- Reasons for travel

Approval shall be granted on an individual trip basis at an open Council Meeting.

After returning from overseas, Councillors, or an accompanying member of Council staff should provide a detailed written report to a full Meeting of Council on the aspects of the trip relevant to Council business and/or the local community.

Details of overseas travel must also be included in Council's Annual Report.

### 2.6 Legal Expenses and Obligations

Council shall only meet the reasonable legal expenses of a Councillor for legal proceedings being taken against a Councillor defending an action arising from the performance in good faith of a function under the Local Government Act (refer to section 731) or defending an action in defamation, provided that the outcome of the legal proceedings is favourable to the Councillor.

Reasonable legal costs may also be available for an inquiry, investigation or hearing into a Councillor's conduct by an appropriate investigative or review body including:

- (i) Local Government Pecuniary Interest and Disciplinary Tribunal
- (ii) Independent Commission Against Corruption
- (iii) Office of the NSW Ombudsman
- (iv) Division of Local Government, Department of Premier and Cabinet
- (v) NSW Police Force
- (vi) Director of Public Prosecutions
- (vii) Council's Conduct Review Committee

This is provided that the subject of the inquiry, investigation or hearing arises from the performance in good faith of a Councillor's function under the Act and the matter before the investigative or review body has proceeded past any initial assessment phase to a formal investigation or review. In the case of a conduct complaint made against a Councillor, legal costs shall only be made available where the matter has been referred by the General Manager to a conduct reviewer/conduct review committee to make formal enquiries into that matter in accordance with the procedures in the Model Code of Conduct. In the case of a pecuniary interest behaviour matter, legal costs should only be made available where a formal investigation has been commenced by the Division of Local Government.

In addition, legal costs will only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the Councillor. This may include circumstance in which a matter does not proceed to a finding. In relation to a Councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach had occurred may not necessarily be considered a substantially unfavourable outcome.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

Council shall not meet the legal costs of legal proceedings initiated by a Councillor under any circumstance other than where a Councillor seeks orders under the Crimes (Domestic and Personal Violence) Act 2007 arising from the performance in good faith of a Councillor's function under the Local Government Act.

Council shall not meet the legal costs of a Councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation.

Legal costs shall not be met for legal proceedings that do not involve a councillor performing their role as a Councillor.

Council may lawfully obtain insurance cover against the risk of having to meet the reasonable legal costs of a Councillor, or to reimburse those costs, provided that the costs or reimbursements are ones that Council is authorised to meet.

Where possible, it is important that approval is gained prior to legal expenses being incurred.

**Note:** The General Manager is delegated to obtain legal advice relating to a pecuniary interest, conflict of interest or matter governed by the Code of Conduct which in the opinion of the General Manager is necessary to clarify the particular Councillor's responsibilities in the performance of his / her functions of civic office.

### 2.7 Security and Obligations

Council shall meet the reasonable expenses of a Councillor in proceedings intended to prevent physical or mental harm to the Councillor arising from the conduct of a third party against the Councillor in relation to the Councillor performing their function under the Local Government Act (refer to Section 731) in good faith. Such expenses may extend to the cost of providing services and equipment to protect the security of Councillors.

Where possible it is important that approval is gained prior to expenses being incurred.

## **GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER**

---

### **2.8 Insurance Expenses and Obligations**

Section 382 of the Local Government Act 1993 requires Council to make arrangements for adequate insurance against public liability and professional liability.

Council shall meet the cost of providing the following insurance cover for Councillors on a 24 hour basis while on Council business or as Council's representative:

- Public Liability insurance - for matters arising out of Councillors' performance of their civic duties and/or exercise of their Council functions.
- Councillors and Officers Liability insurance
- Professional Indemnity insurance - for matters arising out of Councillors' performance of their civic duties and/or exercise of their Council functions.
- Personal Accident insurance - for matters relating to Personal Injury while on Council business.
- Travel insurance - for approved interstate and overseas travel while on Council business when requested.

### **2.9 Telecommunications / Internet**

#### **Telephone/Facsimile/Internet Costs and Expenses**

Council will pay for the installation of a telephone line (ADSL equipped) or cable connection for Council use only in association with the provision by Council of a Computer (either Laptop or Desktop).

Council will pay for the installation of an additional telephone line, where necessary, for Council use only in association with the provision by Council of a fax / answering machine.

Council shall meet the cost of rental, associated charges and maintenance for one (1) phone line for fax / answering machine and/or internet connection. The cost of calls incurred in transmitting facsimiles and internet services up to a maximum cost of two thousand and four hundred dollars (\$2400) per year.

Council shall provide a fax machine to the value of one thousand dollars (\$1000) to assist Councillors in undertaking Councillor duties.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### Mobile Telephone Costs and Expenses

Council shall meet the cost of a mobile telephone either:

- A Council provided mobile telephone to the value of one thousand four hundred dollars (\$1400) plus car kit installed in a nominated vehicle. Council shall pay rental and the costs of Council related business metered calls and services to the maximum of limit of three thousand six hundred dollars (\$3600) per year. The three thousand six hundred dollars (\$3600) limit per year for calls and services can also include data costs in respect of mobile telephones.
- If the Councillor provides their own mobile telephone and mobile related access service, Council shall reimburse the cost of rental plus the cost of those calls and services certified by the Councillor as being Council related business to a limit of three thousand six hundred dollars (\$3600).

Note: Councillors may be provided with up to one (1) replacement mobile telephone per year.

### 2.10 Care and Other Related Expenses

#### Care of relatives / Childcare

In this clause, *relative* shall have the same meaning as set out in the Dictionary in the Act;

*Relative, in relation to a person, means any of the following:*

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

Where a Councillor has responsibilities for the care and support of any relative, the Council shall reimburse the actual cost incurred by the Councillor to engage professional care for the relative whenever considered necessary by the Councillor in order for the Councillor to discharge the functions of civic office.

The total amount paid to a Councillor under this provision shall not exceed three thousand dollars (\$3,000) per year.

Receipts are to be submitted no later than three (3) months after the expense has been incurred for reimbursement of funds.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### Special requirements of Councillors

Council shall meet reasonable expenses associated with any special requirements of a Councillor, such as disability and access needs, in order to discharge the functions of civic office.

The total amount paid to a Councillor under this provision shall not exceed \$3,000 per year.

Receipts are to be submitted no later than three (3) months after the expense has been incurred for reimbursement of funds.

## **2.11 Spouse and Partner Expenses**

### Payment of expenses for spouses, partners and accompanying persons

Definition of an Accompanying Person within this policy: - An accompanying person is a person who has a close personal relationship with the Councillor and/or provides carer support to the Councillor.

Council will meet limited expenses of spouses, partners or accompanying persons when they accompany the Mayor or Councillors in the following circumstances:

- i. Attendance at the Local Government and Shires Associations' Annual Conferences. These expenses are limited to the cost of registration and the official conference dinner. Expenses such as travel expenses, any additional accommodation expenses and the cost of any accompanying persons program shall not be met by Council.
- ii. Attendance at official Council functions that are of a formal and ceremonial nature, are considered appropriate when accompanying Councillors within the Local Government area. Such functions could include but not be limited to, Australia Day award ceremonies, Citizenship ceremonies, Civic receptions and Charitable functions for charities formally supported by the Council.
- iii. Attending an official function of Council or carrying out an official ceremonial duty while accompanying the Mayor outside the Council's area, but within NSW. Examples could include charitable functions or award ceremonies and or other functions to which the Mayor has been invited to attend on behalf of Council.
- iv. Attendance at other appropriate functions. The payment of expenses for spouses, partners or accompanying persons should be confined specifically to the ticket, meal and/or the direct cost of attending the function. Each Councillor is entitled to a maximum of \$200 per year of term for these types of expenses.
- v. Council shall meet in limited instances certain costs incurred by the Councillor on behalf of their spouse, partner or accompanying person that are properly related to the role of Councillor in the performance of his or her functions.

## **GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER**

---

Council will not meet costs / expenses incurred by spouses, partners or accompanying persons in the following circumstances:

- i. any event or function outside the council area, including interstate and overseas (excludes approved functions listed above).
- ii. in all circumstances, peripheral expenses incurred by spouses, partners or accompanying persons such as grooming, special clothing and transport are not considered reimbursable expenses.

## **ADDITIONAL MAYORAL EXPENSES**

### **2.12 Additional Allowances and Expenses for the Mayor**

This policy is intended to cover most situations where the Mayor reasonably incurs additional expenses in discharging the functions of Mayoral office. The annual fee paid to the Mayor is not intended to offset those costs.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### PART 3 - PROVISION OF FACILITIES GENERAL PROVISIONS

#### Provision of facilities, equipment and services

##### 3.1 Provision of Facilities Generally

All facilities provided shall be of adequate capacity and functionality to support Councillors in undertaking their role as elected members of Council.

Unless otherwise stated, where a facility shall be provided by the Council in accordance with this policy and a Councillor chooses to accept the facility, it shall be provided by the Council with all establishment and routine maintenance costs being met by the Council, subject to any limits specified. Any provision outside of this policy requires Council's approval at an open Council meeting.

##### 3.2 Private Use of Equipment and Facilities

Councillors shall not generally obtain private benefit from the provision of equipment and facilities. This includes receipt of a travel bonus or other benefit arising from a loyalty scheme. However, incidental personal use of Council equipment and facilities may occur from time to time. Unless otherwise stated or determined, no entitlement under this policy shall be treated as being a private benefit that requires a reduction in the Mayoral fee or the Councillors fee.

However, it is acknowledged that incidental use of Council equipment and facilities may occur from time to time. Such incidental private use is not subject to a compensatory payment.

Where more substantial private use has occurred the Councillor must reimburse Council for the actual cost to Council of the private use in question (refer DLG Guidelines 1.6.4 Private benefit).

Equipment, facilities and services provided under this policy shall not be used to produce election material or for any other political purposes.

### PROVISION OF FACILITIES, EQUIPMENT AND SERVICES FOR COUNCILLORS

#### 3.3 General Shared Facilities for Councillors

Councillors shall be provided with the use of the following shared facilities and equipment whilst undertaking their duties as elected members for Council: -

- a) **Furnished Councillor Room** - Councillors shall be provided with a fully furnished Councillor room with the following inclusions: bar fridge, tea and coffee, lounge, dining table and chairs, television, DVD/video recorder, pigeonhole for mail, telephone, facsimile machine and access to a photocopier



## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

for the purpose of Council, Committee and Working Party Meetings, and for meetings with constituents.

- b) **Meals and Refreshments** - Councillors shall be provided with a suitable meal including refreshments associated with Council, Committee and Working Party Meetings. The standard of the meal provided shall be determined by the Mayor in consultation with the General Manager.
- c) **Parking facilities / Car spaces** - Council shall provide a minimum of three (3) car parking spaces for Councillors comprising of one (1) permanent allocated car parking space for the Mayor and two (2) permanent allocated car parking spaces (No.'s 12 & 13) for Councillors in the street level (Wicks Lane) car park of Council's Civic Centre Building. In the event that the allocated car parking spaces are utilised by Councillors, alternate parking spaces will be made available at such times. On Committee / Working Party Meeting nights, Public Meetings and Council Meeting nights a further (9) car parking spaces shall be allocated in the Civic Centre car park(s).
- d) **Secretarial Support** - Council shall provide secretarial support, as necessary, for Councillors generally and extended support to Committee/Working Party Chairpersons and Delegates on external Committees.
- e) **Clerical / Typing** - If Council staff cannot provide typing assistance for Council matters to Councillors outside resources may be used with prior approval from the General Manager. Detailed receipts will be needed specifying hours worked, hourly rate, quantity of work produced and name of project undertaken for reimbursement of funds.
- f) **Preparation of Media Material except election campaign** - Professional advice and assistance from officers in preparing media material (other than election campaign material) relative to the Councillor's role will be provided subject, in each case, to the approval of the General Manager.
- g) **Relevant Acts, Building Codes, Policy Register** - A current copy of the relevant Acts, Building Codes and a copy of the Policy Register to be placed in the Councillor's room.
- h) **Access to Information** - Councillors can obtain copies of Council information, free of charge, if the information is required to enable a Councillor to undertake their role as defined under s232 of the Local Government Act 1993 and in accordance with Privacy and Personal Information Protection Act 1998.

The above listed facilities, services and equipment shall remain the property of Georges River Council.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### 3.4 Facilities, Equipment and Services Required to be Returned

Upon election to office Councillors shall be provided with certain equipment and other items that shall be returned when the Councillor ceases to hold office.

Facilities, Equipment and Services provided under this clause remain the property of Georges River Council and shall be returned or may be purchased at fair market value upon cessation of Councillor duties or following replacement of the equipment in accordance with this policy. The following equipment and facilities shall be provided under this clause: -

- a) **Laptop or Home Based Computer, Printer and Ancillary Equipment** (for example scanner and electronic diary) - Purchase and maintenance of either a laptop or home based computer, printer, ancillary equipment (for example scanner and electronic diary) and software to the value of five thousand dollars (\$5,000).

Such equipment may be replaced so as to ensure the currency of the technology. Equipment within this category may be replaced or updated following the conclusion of the Councillors second year of term to a value of five thousand dollars (\$5,000).

- b) **Mobile Telephones with Car Kit** - Provision of a mobile phone to the value of one thousand four hundred dollars (\$1,400) plus car kit installed in a nominated vehicle.

Councillors may be provided with up to one (1) replacement mobile telephone per year.

- c) **Electronic Tablet (iPad or equivalent)** - Provision of an Electronic Tablet (iPad or equivalent) to the value of two thousand dollars (\$2,000) and the associated data costs to the value of \$750 per annum.

Electronic Tablet (iPad or equivalent) may be replaced so as to ensure the currency of the technology. They may also be replaced or updated following the conclusion of the Councillors second year of term to a value of two thousand dollars (\$2,000).

- d) **Facsimile Machine/Answering Machine** - Council shall provide a fax machine / answering machine to the value of one thousand dollars (\$1,000).

- e) **Security key** - Councillors are to be provided with a security key for access to Council Chambers and the Councillor's room.

- f) **Shredder** - Councillors to be provided with a shredder to the value of two hundred and fifty dollars (\$250) if requested.

Equipment, which is stolen or lost, will be the responsibility of the Councillor to replace or pay the excess where an item is covered by insurance.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### 3.5 Facilities, Equipment and Services Not Required to be Returned

Upon election to office and throughout the term of office Councillors shall be provided with items of a consumable nature or which otherwise are not required to be returned when the Councillor ceases to hold office. The following items shall be provided under this clause:

- a) **Stationery** – Personalised Councillor letterhead and envelopes maximum two thousand (2,000) sheets and envelopes per year. Maximum of four thousand (4,000) sheets of plain white paper per year.
- b) **Postage** - Official Councillor correspondence [up to two thousand (2,000) letters per year] – to be directed through the Council’s own mail system. If not available allow two thousand (2,000) standard stamps per year.
- c) **Toner** - An allowance of up to two thousand and four hundred dollars (\$2,400) per year is available for consumables, including toner for printer/photocopier/facsimiles.
- d) **Brief Case** – Councillors to be provided with a briefcase if requested to the maximum value of two hundred dollars (\$200).
- e) **Business cards** - Maximum five hundred (500) Business cards per year.
- f) **Name badges** - Councillors to be provided with name badge and name plaques for Council Chambers and Directory Board.
- g) **Recognition of Service** – Certificate of service and gift presented at the discretion of the Mayor and the General Manager upon ceasing to hold civic office.

Equipment, which is stolen or lost, will be the responsibility of the Councillor to replace or pay the excess where an item is covered by insurance.

## PROVISION OF ADDITIONAL EQUIPMENT, FACILITIES AND SERVICES FOR THE MAYOR

### 3.6 Provision of Additional Facilities, Equipment and Services for the Mayor

The Mayor shall be provided with additional facilities to recognise the special role, responsibilities and duties of the position both in the Council and in the community. Facilities, equipment and services provided under this clause remain the property of the Council.

The following additional equipment, facilities and services shall be provided for the Mayor: -

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

- a) **Mayoral Office** - Mayoral Office to be provided including office furniture, desk, chair, filing cabinets, meeting table and chairs, a bar fridge, computer, printer and peripherals.
- b) **Mayoral Chain of Office** - A Mayoral Chain of office for official, civic and ceremonial use.
- c) **Ceremonial Clothing** - Mayoral robes for official, civic and ceremonial use.
- d) **Mayoral Council Vehicle** - Prestige class or similar at the discretion of the Mayor of the day, fully maintained and complete with car kit for a mobile telephone / PDA and for use by the Mayor at all times. A fuel card shall be supplied.
- e) **Car parking** - An allocated car parking space shall be provided at the Council's Civic Centre building.
- f) **Dedicated staff support, including secretarial services** - Suitably qualified and experienced person to provide administrative support, word processing, secretarial support, research and briefings. Additional administrative support when required for assistance with organisation of functions and meetings and briefings on functions to which the Mayor is invited to attend.
- g) **Office Refreshments** - as provided in the Mayoral Office for entertainment purposes.
- h) **Stationery** -Maximum three thousand five hundred (3,500) sheets of Mayoral letterhead and envelopes.
- i) **Mobile Telephone / PDA** -Payment of an additional two hundred dollars (\$200) per month for calls made on Council business.
- j) **Christmas Cards** – five hundred (500) Christmas cards per year.
- k) **Postage** - Official Mayoral correspondence [up to three thousand five hundred (3500) letters per year] – to be directed through the Council's own mail system. If not available allow four thousand (4000) standard stamps per year.
- l) **Business Cards** - An additional two hundred and fifty (250) Business cards each year.

Equipment, which is stolen or lost, will be the responsibility of the Councillor to replace or pay the excess where an item is covered by insurance.

## GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER

---

### 3.7 Mayoral Equipment, Facilities and Services Not Required to be Returned

Upon election to the office and throughout the term of office the Mayor shall be provided with items of a consumable nature or which otherwise are not required to be returned when the Mayor ceases to hold office. The following items do not need to be returned: -:

- a) **Name badge** - Mayor to be provided with name badge and name plaques for Council Chambers and Directory Board.
- b) **Stationery** - Mayoral letterhead, envelopes and stationery generally.
- c) **Christmas Cards.**
- d) **Business Cards.**

**GEORGES RIVER COUNCIL - CODE AND POLICY REGISTER**

---

**Part 4 OTHER MATTERS****4.1 Acquisition and Returning of Facilities and Equipment by Councillors**

Upon ceasing to hold office Councillors must either return all equipment to Council or Councillors may be given the right of purchase of equipment at the agreed current fair market price or written down value set by the General Manager.

**4.2 Status of the Policy**

This policy was prepared having regard to Division of Local Government Circular No. 09-36 dated 7 October 2009 “Guidelines for the Payment of Expenses and the Provision of Facilities to Mayors and Councillors.”

This policy is effective from 19 May 2016.

This policy is available on Georges River Council’s website or a copy can be obtained on request from Georges River Council’s Customer Service Centre.



**GEORGES  
RIVER  
COUNCIL**

# PLANNING AGREEMENTS POLICY

*August 2016*

## POLICY ADMINISTRATION

|                                     |  |
|-------------------------------------|--|
| <b>Dates</b>                        | Policy approved 01/08/2016<br>This policy is effective from 10/08/2016<br>Policy is due for review 08/2020   |
| <b>Approved by</b>                  | Council Meeting 01/08/2016<br>Council Resolution CCL043-16   |
| <b>Exhibition Period</b>            | 22 June 2016 – 19 July 2016  |
| <b>Policy Owner</b>                 | Manager, Strategic Planning - Environment and Planning   |
| <b>Related Documents</b>            | N/A  |
| <b>Appendices</b>                   | Appendix A - Practice Note on Planning Agreements<br>Department of Infrastructure Planning and Natural Resources,<br>July 2005<br>Appendix B – Template Planning Agreement between Council and Developer<br>Appendix C – Template Explanatory Note<br>Appendix D – Template Condition of Development Consent<br>Appendix E – Table of Residual Land Values<br>Appendix F - Table of suggested infrastructure works that constitute a material public benefit with<br>Appendix G – VPA process where VPA relates to a planning proposal<br>Appendix H – VPA process where VPA relates to a development proposal |
| <b>References &amp; Legislation</b> | Environmental Planning and Assessment Act 1979<br>Environmental Planning and Assessment Regulation 2000<br><a href="#">Improving Voluntary Planning Agreements - Planning and Environment Office</a>   |
| <b>Document Identifier</b>          | Policy #: Pol-037.01<br>Doc #: D17/160866  |
| <b>Breaches of Policy</b>           | Breaches of any policy will be dealt with and responded to in accordance with adopted codes and/or relevant legislation.   |
| <b>Record Keeping</b>               | All documents and information obtained in relation to the implementation of this policy will be kept in accordance with the NSW State Records Act 1998, Georges River Council's Corporate Records Policy and adopted internal procedures.  |



## PURPOSE

This policy outlines the policy and procedures relating to planning agreements under s93F of the Environmental Planning and Assessment Act 1979.

## SCOPE

This policy applies to land and development within the Local Government Area (LGA) of Georges River Council. This policy also applies to land outside the George River LGA in the case of a joint planning agreement between the Council and another council or planning authority in regard to land outside the Georges River LGA.

## DEFINITION OF TERMS

| <b>Term</b>                     | <b>Meaning</b>  |
|---------------------------------|---|
| <i>Act</i>                      | Environmental Planning and Assessment Act 1979  |
| <i>Council</i>                  | Georges River Council   |
| <i>Developer</i>                | Is a person who has:<br>a) Sought a change to an environmental planning instrument; or<br>b) Made or proposes to make a development application; or<br>c) Entered into an agreement with or is otherwise associated with, a person to whom paragraph a) or b) applies   |
| <i>Development Application</i>  | Has the same meaning as in the Act  |
| <i>Development Contribution</i> | The kind of provision made by a developer under a planning agreement, being a monetary contribution, the dedication of land free of cost or the provision a material public benefit. Appendix F sets out guidance in relation to suggested public benefits applicable and desirable within the Council's LGA                  |
| <i>Explanatory Note</i>         | A written statement made by a planning authority in accordance with clause 25E of the Regulation  |
| <i>Instrument Note</i>          | A change to an environmental planning instrument to enable a development application to be made, to carry out development (this includes the making, amendment or repeal of an instrument),   |
| <i>Land value capture</i>       | A public financing mechanism implemented through planning agreements by which the Council captures for the community's benefit a share of the increase in the unimproved land value arising from:<br><br>a) an Instrument change which facilitates development, plus associated or consequential changes to any Georges River |

|                            |  |
|----------------------------|--|
|                            | <p>development control plan; or</p> <p>(a) the granting of a development consent which allows development to exceed development standards or other development controls under the <i>Hurstville Local Environmental Plan 2012 Kogarah Local Environmental Plan 2012</i> (the <b>LEP</b>) or another environmental planning instrument.</p>   |
| <i>Net Public Benefit</i>  | A public benefit that exceeds the benefit provided by specific measures that address the impacts or potential impacts of a planning proposal or development on surrounding land.   |
| <i>Planning Obligation</i> | An obligation imposed by a planning agreement on a developer requiring the developer to make a development contribution.   |
| <i>Planning Proposal</i>   | Has the same meaning as in the Act.  |
| <i>Practice Note</i>       | Means the Practice Note on Planning Agreements published by the NSW Department of Infrastructure Planning and Natural Resources (July 2005) as may be amended (see <b>Appendix A</b> ).  |
| <i>Public</i>              | Includes a section of the public.  |
| <i>Public Benefit</i>      | The benefit enjoyed by the public as a consequence of a development contribution.  |
| <i>Public Facilities</i>   | Means public infrastructure, facilities, amenities and services.   |
| <i>Public Purpose</i>      | <p>Includes (without limitation) any of the following:</p> <ul style="list-style-type: none"> <li>a) The provision of (or the recoupment of the cost of providing) public amenities or public services;</li> <li>b) The provision of (or the recoupment of the cost of providing) affordable housing;</li> <li>c) The provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land;</li> <li>d) The funding or recurrent expenditure relating to the provision of public amenities or public services, affordable housing or transport or other infrastructure;</li> </ul> |

|                      |  |
|----------------------|--|
|                      | <p>e) The monitoring of the planning impacts of development; and</p> <p>f) the conservation or enhancement of the natural environment.</p>   |
| <i>Regulation</i>    | Environmental Planning and Assessment Regulation 2000  |
| <i>Surplus Value</i> | The value of the developer's contribution under a planning agreement less the sum of the value of public works required to be carried out by the developer under a condition imposed under s 80A(1) of the Act and the value of development contributions that are or could have been required to be made under s 94 or s 94A of the Act in respect of the subject of the agreement. |
| <i>VPA Officer</i>   | A person appointed by Council, or the General Manager of Council, to have the function of negotiating and considering a proposed planning agreement on behalf of Council.  |
| <i>Works in Kind</i> | A work or action which replaces a monetary contribution in whole or in part.   |

## POLICY STATEMENT

### 1. Introduction

- 1.1 The Council's current legal and procedural framework for planning agreements is set by the following:
- a) The provisions of Subdivision 2 of Division 6 of Part 4 of the Act;
  - b) The provisions of Division 1A of Part 4 of the Regulation;
  - c) The Practice Note;
  - d) The Independent Commission Against Corruption Development Assessment Internal Audit Tool; and
  - e) This Policy.
- 1.2 This policy is not legally binding. However it is intended that the Council and all persons dealing with the Council in relation to planning agreements will follow this policy to the fullest extent possible.
- 1.3 It is intended that this policy will be periodically reviewed and, depending on the outcome of any review, may be updated from time to time. The updates may cover additional matters to those covered in this policy or provide more detailed

information or guidance on specific matters covered in this policy. The Residual Land Value table in Appendix E may be amended on an as needs basis separately to a review of this policy.

## **2. Principles on the use of planning agreements**

2.1 This section sets out the principles and framework on the use of planning agreements.

### **Council's policy objectives**

2.2 The objectives of this Policy are to:

- a) establish the Council's policy on the use of planning agreements;
- b) to provide an enhanced and more flexible development contributions system for the Council;
- c) to supplement or replace, as appropriate, the application of s 94 or s 94A of the Act to development;
- d) establish a clear and transparent framework governing the use of planning agreements by the Council;
- e) ensure that the framework for planning agreements is, consistent, efficient, fair, and accountable;
- f) establish a probity framework for the negotiation, preparation and implementation of planning agreements;
- g) provide a framework that allows for development contributions to be informed by and/or based on the concept of land value capture or alternative mechanisms;
- h) facilitate the provision of public facilities, services and amenity outcomes that align with the Council's corporate and strategic planning context; and
- i) enable the provision of development contributions above those required to address the direct impact of a particular development on neighbouring land and the wider community.

### **Principles of planning agreements**

2.3 The Council's use of planning agreements will be governed by the following principles:

- a) planning decisions must not be bought or sold through planning agreements;

- b) the Council will not allow planning agreements to improperly fetter the exercise of its functions under the Act, Regulation or any other Act or law;
- c) the Council will not use planning agreements for any purpose other than a proper planning purpose;
- d) the consideration, negotiation and assessment of a proposed planning agreement will be separate from the consideration of the planning merits of a development application or a planning proposal;
- e) the Council will not use planning agreements as a means to overcome revenue raising or spending limitations to which it is subject or for other improper purposes;
- f) development that is unacceptable on planning grounds will not be permitted because of public benefits offered by developers that do not make the development acceptable on planning grounds;
- g) the Council will not seek benefits under a planning agreement that are wholly unrelated to the development;
- h) in assessing a development application or planning proposal, the Council will not take into consideration planning agreements that are wholly unrelated to the subject matter of the development application or planning proposal, nor will the Council give disproportionate weight to a planning agreement;
- i) the Council will not allow the interests of developers, individuals or interest groups to outweigh the public interest when considering a proposed planning agreement;
- j) the Council will not improperly rely on its position in order to extract unreasonable public benefits from developers under planning agreements; and
- k) where the Council has a commercial stake in development the subject of a planning agreement, it will take appropriate steps to ensure that it avoids a conflict of interest between its role as a planning authority and its interests in the development.

### **When may the Council consider entering into a planning agreement?**

2.4 The Council may consider entering into a planning agreement when a developer:

- a) proposes to, or has made a request for an Instrument change to facilitate the carrying out of development; or

- b) proposes to, or has made, a development application; or
- c) has entered into an agreement with, or is otherwise associated with, a person to whom (a) or (b) applies.

2.5 Where the Council requires a planning agreement to be entered into as a condition of development consent, the planning agreement must be in the terms of an offer made by the developer in connection with the:

- a) development application; or
- b) request for an instrument change.

2.6 Notwithstanding the above, the Council is not obliged to enter into a planning agreement with a developer.

### **Acceptability test**

2.7 The Council will apply the following test when determining the acceptability of a proposed planning agreement.

2.8 Does the planning agreement:

- a) satisfy the statutory requirements for planning agreements contained in the Act and the Regulation;
- b) comply with the principles set out in clause 2.3 of this Policy;
- c) be directed towards a proper or legitimate planning purpose ordinarily ascertainable from the statutory planning controls and other adopted planning policies applying to development and the circumstances of the case;
- d) provide for public benefits that bear a relationship to the development that is not wholly unrelated to the development;
- e) produce outcomes that meet the general values and expectations of the public and protect the overall public interest;
- f) provide for reasonable means of achieving the relevant purposes and outcomes and securing the benefits;
- g) protect the communities reasonable planning expectations and avoid environmental harm; and
- h) ensure the quantum of the public benefit offered is commensurate with the value of the development contributions which the Council considers are reasonably due in the circumstances.

- 2.9 In addition to the Acceptability Test, the Council must consider if there are any relevant circumstances that may operate to preclude the Council from entering into the proposed planning agreement.

### **Provisions of planning agreements relating to s 94 and s 94A**

- 2.10 A planning agreement may wholly or partly exclude the application of s 94 or s 94A of the Act to development that is the subject of the planning agreement.
- 2.11 This is a matter to be negotiated between the Council and a developer having regard to the circumstances of the case.
- 2.12 However, where the application of s 94 and s 94A of the Act to development are not excluded by a planning agreement, the Council will generally not agree to a provision allowing benefits under the planning agreement to be taken into consideration in determining a development contribution under s 94. Section 94 and 94A conditions must comply with Council's s 94 and s 94A plans and the Act.

### **Relationship between planning agreements and clause 4.6 of the LEP**

- 2.13 Any variation to development standards under clause 4.6 of the LEP, as part of a development application sought in connection with a planning agreement, will not be permitted by the Council unless the Council is of the opinion that the dispensation sought under clause 4.6 meets the relevant test on its own planning merits.

### **Costs of negotiating, preparing and monitoring a planning agreement**

- 2.14 The Council will generally require a planning agreement to make provision for payment by the developer of the Council's costs of negotiating, preparing, and executing the planning agreement, as well as monitoring, enforcing and administering the planning agreement.

### **Preparation and documentation of the planning agreement**

- 2.15 Unless otherwise agreed, the Council will ordinarily prepare a planning agreement, based on the template in accordance with Appendix B at the developer's cost.

### **Council's Annual Report and Register**

- 2.16 The Act requires that where the Council has entered into a planning agreement, while the planning agreement is in force, that Council must include in its annual report particulars of compliance with and the effect of the planning agreement during the year to which the annual report relates

- 2.17 Council is to keep a register of any planning agreements that apply to land within the Council's area, whether or not the Council is a party to a planning agreement. The Council is required to record in the register the date an agreement was entered into and a short description of the agreement (including any amendment).
- 2.18 The Council will make the following available for public inspection (free of charge) during ordinary office hours:
- a) the planning agreement register kept by the Council;
  - b) copies of all planning agreements (including amendments) that apply to the area of the Council; and
  - c) copies of the explanatory notes relating to those agreements or amendments.

### **Dispute resolution**

- 2.19 The Council will require a planning agreement to provide for a dispute resolution mechanism between the parties to the planning agreement.

## **3. Probity**

- 3.1 Public probity is important to Georges River Council and it will ensure that the negotiation of all planning agreements is fair, transparent and directed at achieving public benefits in an appropriate manner, free of corruption.
- 3.2 Noting this, the Council will:
- a) provide a copy of this policy to any person who seeks to enter into a VPA with Council;
  - b) publish this policy on Council's website and promote the general awareness of this policy;
  - c) comply with public notification requirements in the Act;
  - d) ensure appropriate delegations and separation of responsibilities in relation to:
    - i. the assessment of planning proposals and development applications; and
    - ii. the consideration and negotiation of planning agreements.
  - e) ensure that modifications to approved development must be subject to the same scrutiny as the original development application;



- f) ensure that Councillors and Council staff understand their particular role and responsibility, some of which carry the potential for conflicts of interest; and
- g) take every step to ensure that conflicts of interest are avoided to the greatest extent possible – specifically, independent assessment by third parties where Council has an interest and not entering into any contractual arrangement which purports to fetter Council's discretion or guarantee outcomes that are subject to a separate regulatory processes.

3.3 The procedures that will be implemented to address these matters may include, but not be limited by, the following procedures:

- a) the Councillors will not be involved in the negotiation of the planning agreement but will ultimately decide whether the Council should enter into a planning agreement as part of their duties as Councillors;
- b) the VPA Officer will be responsible for negotiating a planning agreement on behalf of the Council in accordance with this Policy;
- c) the Council will, in all cases, ensure that Council staff with key responsibility for assessing development applications, approving applications, assessing planning proposals or ensuring compliance, do not have a role in the assessment of the commercial aspects of the planning agreement nor on the conditions of the planning agreement except where advice is required on matters relating to the development application or planning proposal, such as conditions of consent for a particular proposal;
- d) the Council may involve an independent person(s) to facilitate or otherwise participate in the negotiations or aspects of it, particularly where this will lead to a better planning outcome;
- e) the Council may appoint a probity advisor, particularly in cases where there may be a risk of conflict of interest, or where there is significant public interest;
- f) the Council will ensure that all negotiations with a developer and their consultants are sufficiently documented; and
- g) where the Council has a commercial stake in development the subject of an agreement, it will take appropriate steps to ensure that it avoids a conflict of interest between its role as a planning authority and its commercial interest in the development, including appointing an independent person(s) and/or probity advisor.

## 4. Negotiation Procedures

### General principles

- 4.1 The Council's negotiation system for planning agreements aims to be transparent, consistent, efficient, fair, and accountable.
- 4.2 The Council will negotiate planning agreements independently from the planning proposal and/or development assessment and determination processes.
- 4.3 The system seeks to ensure that the negotiation of planning agreements runs in parallel with applications for instrument changes or development applications.
- 4.4 As planning agreements are required by the Act to be publicly exhibited, a planning agreement must be negotiated, drafted and be in a final draft form that will enable it to be publicly exhibited.
- 4.5 The Council prefers that a developer makes an offer to enter into a planning agreement at the same time as lodgement of a planning proposal or development application

### Who will negotiate a planning agreement on behalf of the Council

- 4.6 The VPA Officer will negotiate a planning agreement on behalf of the Council. The councillors will not be involved in the negotiation of the planning agreement.

### Separation of the Council's planning assessment and negotiation roles

- 4.7 The Council will ensure that the person who assesses the development application or planning proposal, to which a planning agreement relates, is not the same person or a subordinate of the person who negotiated the key commercial terms of the planning agreement on behalf of the Council.
- 4.8 The Council will nominate the VPA Officer to be the representative of the Council in all negotiations regarding the key commercial terms of any proposed planning agreement.
- 4.9 The VPA Officer will not have any involvement with the assessment of the development application or planning proposal to which the proposed planning agreement relates.
- 4.10 If any person reporting to the VPA Officer is involved with the draft planning agreement, that person shall be bound by the same provisions of this Policy in respect of interaction with Council officers assessing the development application or planning proposal and conflicts of interest.
- 4.11 The Council will ensure the VPA Officer does not have any conflict of interest, pecuniary or otherwise, within the meaning of Council's Code of Conduct in

respect of the subject matter of the planning agreement or the development application or planning proposal to which it relates.

- 4.12 If the VPA Officer considers that she or he may have such a conflict, that person must immediately advise the Council in writing and a different VPA Officer, or if necessary an independent third party, must be appointed.

#### **Involvement of independent third parties in the negotiation process**

- 4.13 The Council will encourage the appointment of an independent person to facilitate or participate in the negotiations, or aspects of it, particularly where:

- a) an independent assessment of a proposed instrument change or development application is necessary or desirable;
- b) factual information requires validation in the course of negotiations;
- c) sensitive financial or other confidential information must be verified or established in the course of negotiations;
- d) facilitation of complex negotiations are required in relation to large projects or where numerous parties or stakeholders are involved; and
- e) dispute resolution is required under a planning agreement.

- 4.14 The costs of the independent person will be borne by the developer.

#### **Negotiation steps for planning agreements**

- 4.15 Before the lodgement of the relevant development application or planning proposal by the developer, the Council staff and the developer will decide whether to negotiate a planning agreement.

- 4.16 At this time, Council's VPA Officer will be responsible for all functions with regard to the proposed planning agreement. Alternatively, Council's General Manager will be involved and negotiate the proposed planning agreement, at the General Manager's discretion.

- 4.17 If the developer is not the owner of the relevant land, the landowner must be an additional party to the proposed planning agreement.

- 4.18 After the parties have decided to negotiate a planning agreement, the negotiation of that agreement will generally involve the following key steps, which may be varied on a case by case basis:

- a) The developer will advise the Council of the person that will represent them in the negotiations.

- b) A timetable for negotiations will be agreed between the VPA Officer and developer.
- c) The key commercial issues for negotiation will be identified by the VPA Officer and the developer, and the negotiations over these issues will then take place.
- d) If agreement is reached on commercial terms, the developer must make a formal letter of offer to enter into the planning agreement with Council. The letter of offer is to be submitted by the developer contemporaneously with the planning proposal or the development application. The developer may submit a draft planning agreement with the letter of offer.
- e) The draft planning agreement is to be prepared based on Council's template attached to this Policy and include all material terms.
- f) The VPA officer is to consider relevant stakeholders and policies when negotiating the planning agreement.
- g) For draft planning agreements which relate to a planning proposal, the draft planning agreement is to be reported to a Council meeting, together with the planning proposal, prior to proceeding to a Gateway Determination.
- h) The Council will publicly exhibit the development application or planning proposal (following the issue of a Gateway determination) and draft planning agreement in accordance with the Act and this Policy. Council will generally require that public exhibition of the draft planning agreement occurs at the same time as public exhibition of the planning proposal or development application.
- i) The VPA Officer may negotiate further changes to the draft planning agreement having regard to any matters raised following public notification and exhibition.
- j) If agreement on terms of the planning agreement has been reached, it has been exhibited, and any further changes negotiated are agreed, the VPA Officer will prepare a report for Council with recommendations with regard to the planning agreement.
- k) The planning agreement will need to be executed by the Developer prior to the meeting of Council for a decision on whether to enter into the planning agreement.
- l) The planning agreement will generally be considered by Council at the same time as the meeting for determination of the relevant development application or decision to proceed with the planning proposal.

4.19 Indicative flow charts that show the steps to be followed during a planning agreement negotiation for both a planning proposal and a development application can be found at Appendix G and H respectively.

#### **Public authority consultation**

4.20 Relevant public authorities will generally be consulted in relation to the development application or planning proposal and planning agreement during the process outlined in paragraph 4.18. Any consequential amendments that may be required to the development application or planning proposal and/or proposed planning agreement as a consequence of those consultations will be discussed with the applicant.

#### **Negotiation steps for planning agreements for Council owned land**

4.21 Council will follow the same process when negotiating a planning agreement for Council owned land. The Council may appoint an independent person(s) or probity advisor in this circumstance.

### **5. Assessment and application of funds**

5.1 This section explains:

- a) general principles on contributions;
- b) how Council will calculate what the appropriate contributions are for a development application or planning proposal; and
- c) how Council will value the public benefits offered under a planning agreement.

#### **Value and form of development contributions under a planning agreement**

5.2 The following matters regarding the value and form of development contributions need to be determined prior to reporting to Council, the:

- a) monetary value of the contribution to be made;
- b) value of any land that is to be dedicated; and
- c) value of the material benefit to be contributed.

5.3 Where either a planning proposal is proposed, or development consent is sought, which will result in an exceedance of development standards, resulting in an inherent increase in value of the land or development, the concept of land value capture may be used to assess the appropriate contribution. This concept may be applied in addition to other considerations in relation to the level of contributions.

## **Standardising contributions**

- 5.4 Wherever possible, the Council will seek to standardise development contributions sought under planning agreements in order to streamline negotiations and provide fairness, predictability and certainty to developers. This, however, does not prevent public benefits being negotiated on a case-by-case basis, particularly where planning benefits are also involved.

## **Pooling of monetary contributions**

- 5.5 Where a proposed planning agreement provides for a monetary contribution by the developer, the Council may seek to include a provision permitting money paid under the agreement to be pooled with money paid under other planning agreements and applied progressively for the different purposes under those agreements, subject to the specific requirements of the relevant agreements. Pooling may be appropriate to allow public benefits, particularly essential infrastructure such as that listed in Appendix F, to be provided in a fair and equitable way.

## **Application of recurrent funds**

- 5.6 The Council may request developers, through a planning agreement, to make development contributions towards the recurrent costs of public facilities.
- 5.7 Where the public facility primarily serves the development to which the planning agreement relates or neighbouring development, the arrangement for recurrent funding may be in perpetuity. However, where the public facility or public benefit is intended to serve the wider community, the planning agreement may only require the developer to make contributions towards the recurrent costs of the facility, for a limited time, until, for example, a public revenue stream is established to support the ongoing costs of the facility.

## **Methods for calculating contributions due**

- 5.8 In calculating the appropriate amount of contributions due under a planning agreement, Council will differentiate between:
- a) a development application that complies with all development standards and controls;
  - b) a development application that exceeds development standards and controls; and
  - c) a planning proposal.

## **Calculation of contributions due for a development application that does not comply with development standards**

5.9 Where development proposed in a development application does not comply with development standards and controls and it will, if approved, result in an increase in value of the land or the development, Council will determine appropriate contributions by applying either land value capture as set out in paragraphs 5.11 - 5.17 or use an alternative mechanism which Council considered appropriate.

### **Calculation of contributions for a planning proposal**

5.10 Where a planning proposal is likely to result in an increase in value of the unimproved land the subject of the planning proposal, Council will determine appropriate contributions by applying land value capture as set out in paragraphs 5.11 - 5.17 or use an alternative mechanism which Council considered appropriate.

### **Land value capture**

5.11 For the purposes of this Policy, land value capture is a public financing mechanism implemented through planning agreements by which the Council captures for the community's benefit a share of the unearned increment to developers in land value increases arising from:

- a) an instrument change which facilitates development, plus associated or consequential changes to any Hurstville or Kogarah Development Control Plan(s); or
- b) the grant of a development consent which allows development to exceed the otherwise permissible development controls under the LEP or another environmental planning instrument.

5.12 Land value capture is distinguishable from development contribution mechanisms under s 94 and s 94A of the Act in that it is focussed on value sharing between the Council on behalf of the community and developers, rather than on financing the costs to the Council of addressing particular impacts of development such as the need for public open space and recreational facilities, community facilities, road improvements and traffic management.

5.13 The formula for calculating a monetary contribution associated with value capture is provided below.

$$C = \frac{RLV (2) - RLV (1)}{2}$$

2

Where:

|         |   |  |
|---------|---|--|
| C       | = | Monetary contribution  |
| RLV (2) | = | Residual land value of a site following either an instrument change, plus associated or consequential changes to any Hurstville or Kogarah Development Control Plan(s), applying to the site, or the consent to development on the site allowing an exceedance of development standards or other planning controls, which in both cases allow intensified development. |
| RLV (1) | = | Residual value of a site under the existing the LEP and Hurstville or Kogarah Development Control Plan provisions.   |

- 5.14 RLV(2) and RLV(1) are to be determined by the land values in the table contained in Appendix E for land within the Hurstville City Centre and Kogarah Town Centre as defined by the Figures 1 and 2 in the Appendix E.
- 5.15 If there is a dispute between Council and the developer with respect to RLV(1) and/or RLV(2), the developer will be required to provide the Council with sufficient details, costs and valuations to determine a realistic figure for the residual land values under the existing and altered statutory planning controls, or resulting from the exceedance of development standards/planning controls.
- 5.16 Such documentation provided to the Council is to be verified by a certified practising valuer or a qualified and experienced land economist, or both if necessary. The Council's staff responsible for the planning agreement may engage an independent land economist and other specialists to review information provided by the developer. Costs incurred by the Council will be met by the developer.
- 5.17 Proposed changes to the LEP contained in a planning proposal may be amended following the public consultation stage. In that case, further



negotiations regarding the offer may occur having regard to changes in development potential and viability. Consequential amendments to the planning agreement may occur.

### **Dedication of land**

- 5.18 Unless otherwise agreed, where the benefit under a planning agreement is the provision of land for a public purpose, the Council will generally seek to value the benefit on the basis of the value of the land being dedicated, taken from the table of land values contained in Appendix E, for specific zones within the Georges River LGA. Council will apply the table within the relevant zone and multiply it by the area of the land to be dedicated. The table is to be updated on an as needs basis.
- 5.19 If there is no corresponding value applicable in Appendix E, then Council will seek to estimate the value of the land proposed to be dedicated as if it were to be valued under the Land Acquisition (Just Terms Compensation) Act 1991 following the compulsory acquisition of the land.

### **Works in kind**

- 5.20 Unless otherwise agreed, Council will generally value the benefit of work in kind by adopting the valuation method that would ordinarily be adopted by a quantity surveyor. Council may require the applicant to provide a valuation, including report by a quantity surveyor, if there is any dispute regarding the infrastructure value for works in kind.

### **Other material public benefits**

- 5.21 Where a planning agreement provides for the provision of a material public benefit, the Council and the developer will negotiate the manner in which the benefit is to be valued for the purposes of the planning agreement.

### **Monetary contributions**

- 5.22 Monetary contributions will be subject to regular adjustment against increases or decreases in CPI. The final amount due will be calculated immediately prior to the time of payment.

### **Credits and refunds**

- 5.23 The Council will not agree to a planning agreement providing for the surplus value under a planning agreement being refunded to the developer or offset against development contributions required to be made by the developer in respect of other development in the Council's area.

## **6. Public notification and exhibition of planning agreements**

### **Public notification**

- 6.1 In accordance with the Act, a proposed planning agreement must be publicly notified and available for public inspection for a minimum of 28 days.
- 6.2 Where possible, Council will seek to publicly notify a proposed planning agreement, together with the development application or planning proposal to which it relates.
- 6.3 Where the development application or planning proposal to which a planning agreement relates is required by or under the Act or Regulation to be publicly notified and available for public inspection for a period exceeding 28 days, the Council will publicly notify the planning agreement and make it available for public inspection for that longer period.
- 6.4 The development application or planning proposal, proposed planning agreement and explanatory note are to be publicly exhibited in accordance with the specific requirements of the Act and Regulation.

### **Re-notification**

- 6.5 The Council will publicly re-notify and make available for public inspection a proposed planning agreement and the development application or planning proposal to which it relates if, in the Council's opinion, a material change is made to the terms of the agreement or the development application or planning proposal after it has been previously publicly notified and inspected.

### **Public comments on planning agreements**

- 6.6 The Council encourages the public to make submissions on planning agreements. This will allow the Council to better understand local needs and permit fine tuning of the planning obligations set out in any planning agreement.
- 6.7 Public submissions to planning agreement notifications will be assessed by the Council in accordance with this Policy.

### **Consideration of a planning agreement**

- 6.8 Council's VPA Officer will assess the merits of a proposed planning agreement and public submissions in accordance with this policy and report that to Council.
- 6.9 In addition, where a development application has been lodged, the planning agreement and public submissions made in relation to that planning agreement will also be considered by the relevant planning officer in the determination of the development application as part of the overall merit assessment under s 79C of the Act.

- 6.10 This will be a separate arm's length assessment to that done by the VPA Officer.
- 6.11 The fact that the Council's VPA Officer approves the terms of a proposed planning agreement will not necessarily mean that the development application or planning proposal, to which the proposed planning agreement relates, is acceptable on its merits. The development application or planning proposal must be acceptable on planning grounds in the overall merit assessment.
- 6.12 The weight given to the proposed planning agreement and public submissions made in relation to that agreement is a matter for the Council acting reasonably.

## **7. Enforcement and management of planning agreements**

### **Appropriate means of enforcement**

- 7.1 Section 93F(3)(g) of the Act requires a planning agreement to provide for enforcement by suitable means. The suitable means will vary depending on the circumstances, but will typically include security and/or registration of the planning agreement on title.

### **Provision of security under a planning agreement**

- 7.2 The Council will generally require a planning agreement to make provision for security by the developer for the developer's obligations under the planning agreement.
- 7.3 The form of security will generally be an unconditional bank guarantee from an Australian Bank in favour of the Council to the full value of the developer's provision under the planning agreement and on terms otherwise acceptable to the Council.

### **Registration of planning agreements**

- 7.4 Section 93H of the Act permits a planning agreement (including where an agreement is amended) to be registered on the title to land, provided each person with an estate or interest in the land agrees to its registration.
- 7.5 Section 93H(3) provides that a planning agreement that has been registered on the title to land under s 93H is binding on, and enforceable against, the owner of the land from time-to-time as if each owner for the time being had entered into the agreement.
- 7.6 The Council will generally require a planning agreement to contain a provision requiring the developer to agree to registration of the planning agreement, pursuant to s 93H of the Act, if the requirements of that section are satisfied.

### **Notations on certificates under s 149(5) of the Act**

- 7.7 Council will generally require a planning agreement to contain an acknowledgement by the developer that Council may, in its absolute discretion, make a notation about a planning agreement on any zoning certificate issued under s 149 of the Act relating to the land the subject of the agreement or any other land.

### **Entering into a planning agreement**

- 7.8 A planning agreement is entered into when it is signed by all of the parties.
- 7.9 A planning agreement can be entered into at any time after the planning agreement is publicly notified in accordance with the Act and Regulation.
- 7.10 Council will typically require a developer to give an irrevocable offer and sign the planning agreement before the grant of development consent or prior to Council requesting that the Minister make the Instrument change referred to in the planning proposal.
- 7.11 If there is development application, the Council will generally require the planning agreement to be entered into as a condition of granting development consent to the development to which the planning agreement relates, particularly if the planning agreement has not yet been executed.
- 7.12 In such a case, a condition of consent may be imposed which is generally in the form set out in Appendix D, but only in terms of the developer's offer made in connection with the development application.
- 7.13 Council cannot include a condition of consent that requires a developer to enter into a planning agreement on different terms than offered, or if no planning agreement was offered.

### **Time when developer's obligations arise under a planning agreement**

- 7.14 The Council will generally require a planning agreement to provide that the developer's obligations under the planning agreement and the payment of contributions will take effect when development consent is granted or when the relevant Instrument change is gazetted.

### **Hand-over of works**

- 7.15 The Council will generally not accept the hand-over of a public work carried out under a planning agreement unless the developer furnishes to the Council a certificate to the effect that the work has been carried out and completed in accordance with the planning agreement and any applicable development consent.

- 7.16 The Council will also require the planning agreement to provide for a defects liability period during which any defects must be rectified at the developer's expense.

#### **Management of land or works after hand-over**

- 7.17 If a planning agreement provides for the developer, at the developer's cost, to manage or maintain land that has been dedicated to the Council or works that have been handed-over to the Council, the Council will generally require the parties to enter into a separate implementation agreement in that regard.
- 7.18 The failure of the parties to reach agreement in relation to management and maintenance of the land or works may be dealt with under the dispute resolution provisions of the planning agreement.

#### **Monitoring and review of a planning agreement**

- 7.19 The Council will continuously monitor the performance of the developer's obligations under a planning agreement.
- 7.20 The Council will require the planning agreement to contain a provision establishing a mechanism under which the planning agreement is periodically reviewed with the involvement of all parties. This will include a review of the developer's performance of the planning agreement.

#### **Modification or discharge of the developer's obligations under a planning agreement**

- 7.21 The Council may agree to a provision in a planning agreement permitting the Developer's obligations under the planning agreement to be modified or discharged where the modification or discharge is linked to the following circumstances:
- a) the developer's obligations have been fully carried out in accordance with the planning agreement;
  - b) the developer has assigned/novated the developer's interest under the planning agreement in accordance with its terms and the assignee has become bound to the Council to perform the developer's obligations under the planning agreement;
  - c) the development consent to which the planning agreement relates has lapsed;
  - d) there has been a material modification to the development consent to which the planning agreement relates;

- e) the performance of the planning agreement has been frustrated by an event beyond the control of the parties;
- f) the Council and the developer otherwise agree to the modification or discharge of the planning agreement;
- g) material changes have been made to the planning controls applying to the land to which the planning agreement applies; or
- h) the revocation or modification by the Minister for Planning of a development consent to which a planning agreement relates.

7.22 Such a provision will require the modification or discharge of the planning agreement to be in accordance with the Act and Regulation.

**Assignment and dealings by the developer**

7.23 The Council will require every planning agreement to provide that the developer may not assign its rights or obligations under the planning agreement nor have any dealing in relation to the land the subject of the planning agreement unless, in addition to any other requirements of the planning agreement:

- a) the developer and incoming party has, at no cost to the Council, either entered into a deed of novation or executed all necessary documents in favour of the Council by which that person agrees to be bound by the planning agreement as if they were a party to the original agreement; and
- b) the Developer is not in breach of the planning agreement.

**VERSION CONTROL AND CHANGE HISTORY**

| Version | Amendment Details   | Policy Owner               | Period Active           |
|---------|---|----------------------------|-------------------------|
| HCC     | Former Hurstville Council Policy discontinued                 | Strategic Planning         | 19/12/2006 – 09/08/2016 |
| 1.0     | Complete new Georges River Council Planning Agreements Policy | Manager Strategic Planning | 10/08/2016              |

**Appendix A - Practice Note on Planning Agreements Department of Infrastructure  
Planning and Natural Resources, July 2005**

---

Refer to the Department of Planning's website: <http://www.planning.nsw.gov.au>

# Planning Agreement

Under s 93F of the *Environmental Planning and Assessment Act 1979*

---

**Georges River Council**

**And**

**[insert party]**



## KEY DETAILS

---

**Date** See Execution on page 53

---

### Parties

#### Council

**Name** Georges River Council  
ABN 57 789 014 855  
**Address** Civic Centre MacMahon Street Hurstville NSW 2220  
**Attention** ##  
**Fax** ##  
**Email** ##

#### Developer

**Name**  
**Address**  
**Attention**  
**Fax**  
**Email**

**Land** See definition of *Land* in clause ##

**Development** See definition of *Development* in clause ##

**Development Contributions** See clause 9 and Schedule 1

**Application of s94, s94A and s94EF of the Act** See clause ##

**Security** See Part 4

**Registration** See clause ##

**Restriction on dealings** See clause ##

**Dispute Resolution** See Part 3

## BACKGROUND

- A The Developer owns the Land.
- B The Developer has lodged the [Development Application/Planning Proposal].
- C The [Development Application/Planning Proposal] was accompanied by an offer by the Developer to enter into a planning agreement with Council under which the Developer would provide Development Contributions in the form of [a monetary contribution, public domain works, road upgrades, landscaping and the dedication of land] to Council if [Development Consent was granted to the Development Application/ the Amending LEP was made to facilitate the Planning Proposal].
- D The Developer and the Council have agreed that the Developer will make Development Contributions in connection with the [Development Application/Planning Proposal] in accordance with this Deed.

## TERMS

### Part 1 - Preliminary

#### 1 Interpretation

---

##### 1.1 Definitions

In this Deed the following definitions apply:

**Act** means the *Environmental Planning and Assessment Act 1979* (NSW).

**Amending LEP** means the amendment to [insert relevant LEP title] to facilitate the implementation of the Planning Proposal.

**Approval** includes approval, consent, licence, permission or the like.

**Authority** means the Commonwealth or New South Wales government, a Minister of the Crown, a government department, state-owned corporation, a public authority established by or under any Act, a council or county council constituted under the *Local Government Act 1993*, or a person or body exercising functions under any Act including a commission, panel, court, tribunal and the like.

**Bank Guarantee** means an irrevocable and unconditional undertaking without any expiry or end date in favour of the Council to pay an amount or amounts of money to the Council on demand issued by:

- (a) one of the following trading banks:
- (i) Australia and New Zealand Banking Group Limited,
  - (ii) Commonwealth Bank of Australia,
  - (iii) Macquarie Bank Limited,

- (iv) National Australia Bank Limited,
  - (v) St George Bank Limited,
  - (vi) Westpac Banking Corporation, or
- (b) any other financial institution approved by the Council in its absolute discretion.

**Claim** includes a claim, demand, remedy, suit, injury, damage, loss, Cost, liability, action, proceeding or right of action.

**CPI** means the *Consumer Price Index (All Groups - Sydney)* published by the Australian Bureau of Statistics.

**Cost** means a cost, charge, expense, outgoing, payment, fee and other expenditure of any nature.

**Dedication Plan** means the plan in Schedule 3.

**Deed** means this planning agreement and includes any schedules, annexures and appendices to this deed.

**Defect** means anything that adversely affects, or is likely to adversely affect, the appearance, structural integrity, functionality or use or enjoyment of a Work or any part of a Work.

**Defects Liability Period** means the period of 1 year commencing on the day immediately after a Work is completed for the purposes of this Deed.

**Development** means the development [described in/contemplated by] the [Development Application/Planning Proposal].

**Development Application** means [insert details].

**Development Consent** has the same meaning as in the Act.

**Development Contribution** means, the dedication of land free of cost, the payment of a monetary contribution, the carrying out of work, or the provision of any other material public benefit, or any combination of them, to be used for, or applied towards a public purpose (subject to the provisions of the Deed) and the other benefits included in Schedule 1, but does not include any Security or other benefit provided by a Party to the Council to secure the enforcement of that Party's obligations under this Deed for the purposes of s93F(3)(g) of the Act.

**Dispute** means a dispute or difference between the Parties under or in relation to this Deed.

**Equipment** means any equipment, apparatus, vehicle or other equipment or thing to be used by or on behalf of the Developer in connection with the performance of its obligations under this Deed.

**GST** has the same meaning as in the GST Law.

**GST Law** has the same meaning as in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

**Item** means specified in Column 1 of Schedule 1.

**Just Terms Act** means the *Land Acquisition (Just Terms Compensation) Act 1991*.

**Key Details** means the section of this agreement headed Key Details.

**Land** means [insert details].

**Location Plan** means the plan in Schedule 4.

**Occupation Certificate** has the same meaning as in the Act.

**Party** means a party to this Deed.

**Planning Proposal** means the proposal as set out in [insert details] to be facilitated by the making of the Amending LEP.

**Rectification Notice** means a notice in writing:

- (a) identifying the nature and extent of a Defect,
- (b) specifying the works or actions that are required to Rectify the Defect,
- (c) specifying the date by which or the period within which the Defect is to be rectified.

**Rectify** means rectify, remedy or correct.

**Regulation** means the Environmental Planning and Assessment Regulation 2000.

**Security** means a Bank Guarantee, or a bond or other form of security to the satisfaction of the Council indexed in accordance with CPI from the date of this Deed.

**Work** means the physical result of any building, engineering or construction work in, on, over or under land.

1.2 In the interpretation of this Deed, the following provisions apply unless the context otherwise requires:

- (a) Except as otherwise provided in this Deed, words in this Deed have the same meaning as those words have in the Act;
- (b) Headings are inserted for convenience only and do not affect the interpretation of this Deed.
- (c) A reference in this Deed to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.

- (d) If the day on which any act, matter or thing is to be done under this Deed is not a business day, the act, matter or thing must be done on the next business day.
- (e) A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
- (f) A reference in this Deed to a \$ value relating to a Development Contribution is a reference to the value exclusive of GST.
- (g) A reference in this Deed to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (h) A reference in this Deed to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (i) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed.
- (j) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (k) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (l) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (m) References to the word 'include' or 'including' are to be construed without limitation.
- (n) A reference to this Deed includes the agreement recorded in this Deed.
- (o) A reference to a Party to this Deed includes a reference to the servants, agents and contractors of the Party, the Party's successors and assigns.
- (p) A reference to 'dedicate' or 'dedication' in relation to land is a reference to dedicate or dedication free of cost.
- (q) Any schedules, appendices and attachments form part of this Deed.
- (r) Notes appearing in this Deed are operative provisions of this Deed.

## **2 Status of this Deed**

---

2.1 This Deed is a planning agreement within the meaning of s93F(1) of the Act.

### **3 Commencement**

---

- 3.1 This Deed takes effect on the date when all Parties have executed one counterpart of this Deed.
- 3.2 The Party who executes this Deed last is to insert on the front page the date they did so and provide a copy of the fully executed and dated Deed to any other person who is a Party.

### **4 Application of this Deed**

---

- 4.1 This Deed applies to the Land and to the Development.

### **5 Warranties**

---

- 5.1 The Parties warrant to each other that they:
- (a) have full capacity to enter into this Deed, and
  - (b) are able to fully comply with their obligations under this Deed.

### **6 Further agreements**

---

- 6.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject-matter of this Deed that are not inconsistent with this Deed for the purpose of implementing this Deed

### **7 Surrender of right of appeal, etc.**

---

- 7.1 The Developer is not to commence or maintain, or to cause or procure the commencement or maintenance, of any proceedings in any court or tribunal or similar body appealing against, or questioning the validity of this Deed, or an Approval relating to the Development Application in so far as the subject matter of the proceedings relates to this Deed.
- 7.2 Clause 7.1 does not restrict the Developer or person with the benefit of the Development Consent issued in relation to the Development Application from commencing an appeal in the Land and Environment Court in relation to any subsequent development application or application to modify the Development Consent the subject of this Deed, provided that the subject matter of the appeal does not relate to this Deed or any condition of Development Consent requiring entry into this Deed.

### **8 Application of s 94, s 94A and s 94EF of the Act to the Development**

---

- 8.1 This Deed [does/does not] exclude the application of s 94, s 94A or s 94EF to the Development.

## **Part 2 - Development Contributions**

## **9 Provision of Development Contributions**

---

- 9.1 The Developer is to make Development Contributions to the Council in accordance with Schedule 1, any other provision of this Deed relating to the making of Development Contributions.
- 9.2 The Council is to apply each Development Contribution made by the Developer under this Deed towards any public purpose for which it is made (as specified in column 2 of the Table in Schedule 1) and otherwise in accordance with this Deed.
- 9.3 Despite clause 9.2, the Council may apply a Development Contribution made under this Deed towards a public purpose other than the public purpose specified in this Deed if the Council reasonably considers that the public interest would be better served by applying the Development Contribution towards that other purpose rather than the purpose so specified.
- 9.4 If no public purpose is specified for a Development Contribution in Schedule 1, the Council may apply the Development Contribution towards any purpose, which need not be a public purpose.

## **10 Dedication of land [use where appropriate]**

---

- 10.1 A Development Contribution comprising the dedication of land is made for the purposes of this Agreement when:
- (a) a deposited plan is registered in the register of plans held with the Registrar-General that dedicates land as a public road (including a temporary public road) under the *Roads Act 1993* or creates a public reserve or drainage reserve under the *Local Government Act 1993*, or
  - (b) the Council is given:
    - (i) an instrument in registrable form under the *Real Property Act 1900* duly executed by the Developer as transferor that is effective to transfer the title to the land to the Council when executed by the Council as transferee and registered,
    - (ii) the written consent to the registration of the transfer of any person whose consent is required to that registration, and
    - (iii) a written undertaking from any person holding the certificate of title to the production of the certificate of title for the purposes of registration of the transfer.
- 10.2 The Developer is to do all things reasonably necessary to enable registration of the instrument of transfer to occur.
- 10.3 The Developer is to ensure that land dedicated to the Council under this Deed is free of all encumbrances and affectations (whether registered or unregistered and including without limitation any charge or liability for rates, taxes and charges) except as otherwise agreed in writing by the Council.
- 10.4 If, having used all reasonable endeavours, the Developer cannot ensure that land to be dedicated to the Council under this Deed is free from all encumbrances and

affectations, the Developer may request that Council agree to accept the land subject to those encumbrances and affectations, but the Council may withhold its agreement in its absolute discretion.

- 10.5 If Council withholds approval to any encumbrances and affectations under clause 10.4, and the Developer cannot dedicate the land free from those encumbrances and affectations, then the Council will compulsorily acquire the land and clause 26 will apply to the acquisition.
- 10.6 Despite any other provision of this Deed, if the Developer is required to dedicate land to the Council on which the Developer is also required to carry out a Work under this Deed, the Developer is to comply with clause 10.1(b) not later than 28 days after the Work is completed for the purposes of this Deed.

## **11 Approval of design of Works [use where Works are to be carried out by Developer]**

---

- 11.1 Council is to approve the design and specifications for the Works which are Items [insert ] in Part B of the table to Schedule 1 (Specified Works) prior to any Approval for the Specified Works being sought.
- 11.2 Prior to commencing any work on the detailed design of the Specified Works, the Developer is to request that Council provide the Developer with its requirements for the location, design, materials, specifications, capacity and timing for the provision of the Specified Works.
- 11.3 The Council is to act reasonably when specifying its requirements for any Specified Works and Council's requirements must:
- (a) not be inconsistent with the details contained in Schedules 2, 4 and 5; and
  - (b) not require works beyond or outside the scope of the Specified Works.
- 11.4 Once the Developer receives Council's requirements for the Specified Works under clause 11.2, the Developer is to provide the detailed design for the Specified Works to Council for Council's approval.
- 11.5 The Developer is to make any reasonable change to the detailed design for the Specified Works required by the Council, provided those changes must:
- (a) not be inconsistent with the details contained in Schedules 2, 4 and 5; and
  - (b) not require works beyond or outside the scope of the Specified Works.
- 11.6 The Developer is to bear all reasonable costs associated with obtaining the Council's approval to the detailed design of Specified Works under this clause.

## **12 Carrying out of Work [use where appropriate]**

---

- 12.1 Without limiting any other provision of this Deed, any Work that is required to be carried out by the Developer under this Deed is to be carried out in accordance with any design or specification specified or approved by the Council in accordance with clause 11, any relevant Approval and any other applicable law.



- 12.2 The Developer, at its own cost, is to obtain any Approvals necessary for the carrying out of the Work and is to comply with any reasonable direction given to it by the Council to prepare or modify a design or specification relating to a Work that the Developer is required to carry out under this Deed.

### **13 Variation to Work [use where appropriate]**

---

- 13.1 The design or specification of any Work that is required to be carried out by the Developer under this Deed may be varied by agreement in writing between the Parties, acting reasonably, without the necessity for an amendment to this Deed.
- 13.2 Without limiting clause 13.1, the Developer may make a written request to the Council to approve a variation to the design or specification of a Work in order to enable it to comply with the requirements of any Authority imposed in connection with any Approval relating to the carrying out of the Work.
- 13.3 The Council is not to unreasonably delay or withhold its approval to a request made by the Developer under clause 13.2. Council is to provide a response to the request for a variation within 14 days of the developer's submission in writing being received.
- 13.4 Should a response to a request for variation not be provided by Council within 14 days, the parties agree that the variation request is to be taken as approved.
- 13.5 The Council, acting reasonably, may from time to time give a written direction to the Developer requiring it to vary the design or specification of a Work before the Work is carried out in a specified manner only if the variation:
- (a) is not Inconsistent with the details contained In Schedules 2, 4 and 5; and
  - (b) does not require works beyond or outside the scope of the Specified Works.
- 13.6 The Developer is to comply promptly with a reasonable direction referred to in clause 13.5 at its own cost.

### **14 Access to land by Developer [use where appropriate]**

---

- 14.1 The Council authorises the Developer to enter, occupy and use any Council land on which the Works are to be located for the purpose of performing its obligations under this Deed.
- 14.2 The Council is to permit the Developer, upon receiving reasonable prior notice from the Developer, to enter any other Council owned or controlled land in order to enable the Developer to properly perform its obligations under this Deed. For the purpose of this clause reasonable notice is taken to be 14 days.
- 14.3 Nothing in this Deed creates or gives the Developer any estate or interest in any part of the land referred to in clause 14.1 or 14.2.

### **15 Access to land by Council [use where appropriate]**

---

- 15.1 The Council may enter any land on which Work is being carried out by the Developer under this Deed in order to inspect, examine or test the Work, or to

remedy any breach by the Developer of its obligations under this Deed relating to the Work.

- 15.2 The Council is to give the Developer prior reasonable notice before it enters land under clause 15.1. For the purpose of this clause reasonable notice is taken to be 14 days.
- 15.3 Council cannot enter land pursuant to clause 15.1 for the purpose of remedying a breach by the Developer unless Council has first complied with clause 27 of this Deed.

## **16 Council's obligations relating to Work [use where appropriate]**

---

- 16.1 The Council is not to unreasonably delay, hinder or otherwise interfere with the performance by the Developer of its obligations under this Deed, and is to use its reasonable endeavours to ensure third parties unrelated to the Developer do not unreasonably delay, hinder or otherwise interfere with the performance of those obligations.

## **17 Protection of people, property & utilities**

---

- 17.1 The Developer is to ensure to the fullest extent reasonably practicable in relation to the performance of its obligations under this Deed that:
- (a) all necessary measures are taken to protect people and property,
  - (b) unnecessary interference with the passage of people and vehicles is avoided, and
  - (c) nuisances and unreasonable noise and disturbances are prevented.
- 17.2 Without limiting clause 17.1, the Developer is not to obstruct, interfere with, impair or damage any public road, public footpath, public cycleway or other public thoroughfare, or any pipe, conduit, drain, watercourse or other public utility or service on any land except as authorised in writing by the Council or any relevant Authority.

## **18 Repair of damage [use where appropriate]**

---

- 18.1 The Developer is to maintain any Work required to be carried out by the Developer under this Deed until the Work is completed for the purposes of this Deed or such later time as agreed between the Parties.
- 18.2 The Developer is to carry out its obligation under clause 18.1 at its own cost and to the satisfaction of the Council, in accordance with the specifications required by Council as set out in Clause 11.

## **19 Completion of Work [use where appropriate]**

---

- 19.1 The Developer is to give the Council written notice of the date on which it will complete Work required to be carried out under this Deed.
- 19.2 The Council is to inspect the Work the subject of the notice referred to in clause 19.1 within 14 days of the date specified in the notice for completion of the Work.

- 19.3 Work required to be carried out by the Developer under this Deed is completed for the purposes of this Deed when the Council, acting reasonably, gives a written notice to the Developer to that effect.
- 19.4 If the Council is the owner of the land on which Work the subject of a notice referred to in clause 19.3 is issued, the Council assumes responsibility for the Work upon the issuing of the notice, but if it is not the owner at that time, it assumes that responsibility when it later becomes the owner.
- 19.5 Before the Council gives the Developer a notice referred to in clause 19.3, it may give the Developer a written direction to complete, rectify or repair any specified part of the Work to the reasonable satisfaction of the Council that notice must include an itemised list of the works required to complete, rectify or repair the Work.
- 19.6 The Developer, at its own cost, is to promptly comply with a reasonable direction referred to in clause 19.5.

## **20 Rectification of defects**

---

- 20.1 The Council may give the Developer a Rectification Notice during the Defects Liability Period.
- 20.2 The Developer, at its own cost, is to comply with a Rectification Notice according to its terms and to the reasonable satisfaction of the Council.
- 20.3 The Council is to do such things as are reasonably necessary to enable the Developer to comply with a Rectification Notice that has been given to it under clause 20.1.
- 20.4 A Rectification Notice issued by Council in accordance with Clause 20.1 may only require Work undertaken by the Developer to be completed to the standard specified and approved by Council in accordance with Clause 11 of this Deed.

## **21 Works-As-Executed-Plan and Valuation**

---

- 21.1 No later than 60 days after Work is completed for the purposes of this Deed, the Developer is to submit to the Council complete copies of works-as-executed-plans in respect of the Work in a format acceptable to Council.
- 21.2 The Developer must procure from the copyright owner of the plans referred to in clause 21.1, a non-exclusive licence in favour of Council to use the copyright in the plans for Council's purposes.

## **22 Removal of Equipment**

---

- 22.1 When Work on any Council owned or controlled land is completed for the purposes of this Deed, the Developer, without delay, is to:
- (a) remove any Equipment from the Council owned and controlled land and make good any damage or disturbance to the land as a result of that removal, and
  - (b) leave the land in a neat and tidy state, clean and free of rubbish.

## **Part 3 - Dispute Resolution**

### **23 Dispute resolution - expert determination**

---

- 23.1 This clause applies to a Dispute between any of the Parties to this Deed concerning a matter arising in connection with this Deed that can be determined by an appropriately qualified expert if:
- (a) the Parties to the Dispute agree that it can be so determined; or
  - (b) the Chief Executive Officer or head of the professional body that represents persons who have the relevant expertise to determine the Dispute gives a written opinion that the Dispute can be determined by a member of that body.
- 23.2 A Dispute to which this clause applies is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 23.3 If a notice is given under clause 23.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 23.4 If the Dispute is not resolved within a further 28 days, the Dispute is to be referred to the President of the NSW Law Society to appoint an expert for expert determination.
- 23.5 The expert determination is binding on the Parties except in the case of fraud, misfeasance by the expert, or error of law.
- 23.6 Each Party is to bear its own costs arising from or in connection with the appointment of the expert and the expert determination.
- 23.7 The Parties are to share equally the costs of the President, the expert, and the expert determination.

### **24 Dispute Resolution - Mediation**

---

- 24.1 This clause applies to any Dispute arising in connection with this Deed other than a Dispute to which clause 23 applies.
- 24.2 Such a Dispute is taken to arise if one Party gives another Party a notice in writing specifying particulars of the Dispute.
- 24.3 If a notice is given under clause 24.2, the Parties are to meet within 14 days of the notice in an attempt to resolve the Dispute.
- 24.4 If the Dispute is not resolved within a further 28 days, the Parties are to mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and are to request the President of the Law Society to select a mediator.
- 24.5 If the Dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the Parties may exercise their legal rights in

relation to the Dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.

- 24.6 Each Party is to bear its own costs arising from or in connection with the appointment of a mediator and the mediation.
- 24.7 The Parties are to share equally the costs of the President, the mediator, and the mediation.

#### **Part 4 - Enforcement**

### **25 Security for performance of obligations**

---

- 25.1 The Developer is to provide Security to the Council in the amount of [insert amount] in relation to the performance of its obligations under this Deed.
- 25.2 The Developer is to provide the Security to the Council before it commences any part of the Development. [Security may be staged for various items of work where appropriate].
- 25.3 The Council, in its absolute discretion and despite clause 14, may refuse to allow the Developer to enter, occupy or use any land owned or controlled by the Council or refuse to provide the Developer with any plant, equipment, facilities or assistance relating to the carrying out the Development if the Developer has not provided the Security to the Council in accordance with this Deed.
- 25.4 The Council may call-up and apply the Security in accordance with clause 27 to remedy any breach of this Deed notwithstanding any other remedy it may have under this Deed, under any Act or otherwise at law or in equity.
- 25.5 The Council is to release and return the Security or any unused part of it to the Developer within 14 days of completion of the obligations in respect of which the Security relates.
- 25.6 The Developer may at any time provide the Council with a replacement Security. On receipt of a replacement Security, the Council is to release and return the Security that has been replaced to the Developer.
- 25.7 If the Council calls-up the Security or any portion of it, it may, by written notice to the Developer, require the Developer to provide a further or replacement Security to ensure that the amount of Security held by the Council equals the amount it is entitled to hold under this Deed.
- 25.8 At the expiry of each 12 month period during which the Security is provided to the Council, the Developer is to ensure that the Security provided is adjusted by the increase or decrease in CPI index over the last 12 month period.
- 25.9 Notwithstanding any other provision of this Deed, the Developer may provide a separate Security for each Item of Work, provided that the sum of all Securities provided and held by Council complies with this clause 25.

## **26 Acquisition of land required to be dedicated [use where appropriate]**

---

- 26.1 If the Developer does not dedicate land required to be dedicated under this Deed at the time at which it is required to be dedicated, the Developer consents to the Council compulsorily acquiring the land for compensation in the amount of \$1 without having to follow the pre-acquisition procedure under the Just Terms Act, and in respect of Item 2 in Part A of Schedule 1 consents to the Council acquiring the land for the purposes of re-sale.
- 26.2 The Council is to only acquire land pursuant to clause 26.1 if it is reasonable to do so having regard to the circumstances surrounding the failure by the Developer to dedicate the land required to be dedicated under this Deed.
- 26.3 Clause 26.1 constitutes an agreement for the purposes of s30 of the Just Terms Act.
- 26.4 If, as a result of the acquisition referred to in clause 26.1, the Council is required to pay compensation to any person other than the Developer, the Developer is to reimburse the Council that amount, upon a written request being made by the Council, or the Council can call on any Security provided under clause 25.
- 26.5 The Developer indemnifies and keeps indemnified the Council against all Claims made against the Council as a result of any acquisition by the Council of the whole or any part of the land concerned except if, and to the extent that, the Claim arises because of the Council's negligence or default.
- 26.6 The Developer is to promptly do all things necessary, and consents to the Council doing all things necessary, to give effect to this clause 26, including without limitation:
- (a) signing any documents or forms;
  - (b) giving land owner's consent for lodgement of any Development Application;
  - (c) producing certificates of title to the Registrar-General under the *Real Property Act 1900*; and
  - (d) paying the Council's reasonable costs arising under this clause 26.

## **27 Breach of obligations**

---

- 27.1 If the Council reasonably considers that the Developer is in breach of any obligation under this Deed, it may give a written notice to the Developer:
- (a) specifying the nature and extent of the breach;
  - (b) requiring the Developer to:
    - (i) rectify the breach if it reasonably considers it is capable of rectification; or
    - (ii) pay compensation to the reasonable satisfaction of the Council in lieu of rectifying the breach if the breach is not reasonably capable of rectification;

- (c) specifying the period within which the breach is to be rectified or compensation paid, being a period that is reasonable in the circumstances.
- 27.2 If the Developer fails to fully comply with a notice referred to in clause 27.1 within the time specified in the notice, the Council may, without further notice to the Developer, call-up the Security provided by the Developer under this Deed and apply it to remedy the Developer's breach.
- 27.3 If the Developer fails to comply with a notice given under clause 27.1 relating to the carrying out of Work under this Deed, the Council may step-in and remedy the breach and may enter, occupy and use any land owned or controlled by the Developer and any Equipment on such land for that purpose.
- 27.4 Any costs reasonably incurred by the Council in remedying a breach in accordance with clause 27.2 or clause 27.3 may be recovered by the Council by either or a combination of the following means:
- (a) by calling-up and applying the Security provided by the Developer under this Deed; or
  - (b) as a debt due in a court of competent jurisdiction.
- 27.5 For the purpose of clause 27.4, the Council's costs of remedying a breach the subject of a notice given under clause 27.1 include, but are not limited to:
- (a) the costs of the Council's servants, agents and contractors reasonably incurred for that purpose;
  - (b) all fees and charges necessarily or reasonably incurred by the Council in remedying the breach; and
  - (c) all legal costs and expenses reasonably incurred by the Council, by reason of the breach.
- 27.6 Nothing in this clause 27 prevents the Council from exercising any rights it may have at law or in equity in relation to a breach of this Deed by the Developer, including but not limited to seeking relief in an appropriate court.

## **28 Enforcement in a court of competent jurisdiction**

---

- 28.1 Without limiting any other provision of this Deed, the Parties may enforce this Deed in any court of competent jurisdiction.
- 28.2 For the avoidance of doubt, nothing in this Deed prevents:
- (a) a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Deed or any matter to which this Deed relates; or
  - (b) the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Deed or any matter to which this Deed relates.

## **Part 5 - Registration and Restriction on Dealings**

### **29 Registration of this Agreement**

---

- 29.1 The Parties agree to register this Deed on the title of the Land for the purposes of s93H(1) of the Act.
- 29.2 Not later than 10 days after the commencement of this Deed, the Developer is to deliver to the Council in registrable form:
- (a) an instrument requesting registration of this Deed on the title to the Land duly executed by the Developer; and
  - (b) the written irrevocable consent of each person referred to in s93H(1) of the Act to that registration.
- 29.3 The Developer is to do such other things as are reasonably necessary to enable registration of this Deed to occur.
- 29.4 The Parties are to do such things as are reasonably necessary to remove any notation relating to this Deed from the title to the Land once the Developer has completed its obligations under this Deed to the reasonable satisfaction of the Council or this Deed is terminated or otherwise comes to an end for any other reason.

### **30 Restriction on dealings**

---

- 30.1 The Developer is not to:
- (a) sell or transfer the Land; or
  - (b) assign the Developer's rights or obligations under this Deed, or novate this Deed,
- to any person unless:
- (c) the Developer has, at no cost to the Council, first procured the execution by the person to whom the Land or part is to be sold or transferred or the Developer's rights or obligations under this Deed are to be assigned or novated, of a deed in favour of the Council on terms reasonably satisfactory to the Council; and
  - (d) the Council has given written notice to the Developer stating that it reasonably considers that the purchaser, transferee, assignee or novatee, is reasonably capable of performing its obligations under this Deed, and
  - (e) the Developer is not in material breach of this Deed; and
  - (f) the Council otherwise consents to the transfer, assignment or novation, such consent not to be unreasonably withheld.
- 30.2 Clause 30.1 does not apply in relation to any sale or transfer of the Land if this Deed is registered on the title to the Land at the time of the sale or transfer.



## **Part 6 - Indemnities & Insurance**

### **31 Risk**

---

31.1 The Developer performs this Deed at its own risk and its own cost.

### **32 Release**

---

32.1 The Developer releases the Council from any Claim it may have against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

### **33 Indemnity**

---

33.1 The Developer indemnifies the Council from and against all Claims that may be sustained, suffered, recovered or made against the Council arising in connection with the performance of the Developer's obligations under this Deed except if, and to the extent that, the Claim arises because of the Council's negligence or default.

### **34 Insurance**

---

34.1 The Developer is to take out and keep current to the satisfaction of the Council the following insurances in relation to Work required to be carried out by the Developer under this Deed up until the Work is taken to have been completed in accordance with this Deed:

- (a) contract works insurance, noting the Council as an interested party, for the full replacement value of the Works (including the cost of demolition and removal of debris, consultants' fees and authorities' fees), to cover the Developer's liability in respect of damage to or destruction of the Works;
- (b) public liability insurance for at least \$20,000,000.00 for a single occurrence, which covers the Council, the Developer and any subcontractor of the Developer, for liability to any third party;
- (c) workers compensation insurance as required by law; and
- (d) any other insurance required by law.

34.2 If the Developer fails to comply with clause 34.1, the Council may effect and keep in force such insurances and pay such premiums as may be necessary for that purpose and the amount so paid shall be a debt due from the Developer to the Council and may be recovered by the Council as it deems appropriate including:

- (a) by calling upon the Security provided by the Developer to the Council under this Deed; or
- (b) recovering the amount as a debt due in a court of competent jurisdiction.

34.3 The Developer is not to commence to carry out any Work unless it has first provided to the Council satisfactory written evidence of all of the insurances specified in clause 34.1.

## **Part 7 - Other Provisions**

### **35 Notices**

---

- 35.1 Any notice, consent, information, application or request that is to or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:
- (a) delivered or posted to that Party at its address set out in the Key Details;
  - (b) faxed to that Party at its fax number set out in the Key Details; or
  - (c) emailed to that Party at its email address set out in the Key Details.
- 35.2 If a Party gives the other Party 3 business days' notice of a change of its address, fax number or email, any notice, consent, Information, application or request is only given or made by that other Party if it is delivered, posted, faxed or emailed to the latest address or fax number.
- 35.3 Any notice, consent, information, application or request is to be treated as given or made if it is:
- (a) delivered, when it is left at the relevant address,
  - (b) sent by post, 2 business days after it is posted.
  - (c) sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number, or
  - (d) sent by email and the sender does not receive a delivery failure message from the sender's internet service provider within a period of 24 hours of the email being sent.
- 35.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

### **36 Approvals and Consent**

---

- 36.1 Except as otherwise set out in this Deed, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Deed in that Party's absolute discretion and subject to any conditions determined by the Party.
- 36.2 A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

### **37 Costs**

---

- 37.1 The Developer is to pay to the Council the Council's reasonable costs of preparing, negotiating, executing, registering and stamping this Deed, and any

document related to this Deed within 7 days of a written demand by the Council for such payment.

- 37.2 The Developer is also to pay to the Council the Council's reasonable costs of enforcing this Deed within 7 days of a written demand by the Council for such payment.

### **38 Entire Deed**

---

- 38.1 This Deed contains everything to which the Parties have agreed in relation to the matters it deals with.
- 38.2 No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Deed was executed, except as permitted by law.

### **39 Further Acts**

---

- 39.1 Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to effect, perfect or complete this Deed and all transactions incidental to it.

### **40 Governing Law and Jurisdiction**

---

- 40.1 This Deed is governed by the law of New South Wales and the Parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.

### **41 Joint and Individual Liability and Benefits**

---

- 41.1 Except as otherwise set out in this Deed;
- (a) any agreement, covenant, representation or warranty under this Deed by 2 or more persons binds them jointly and each of them individually; and
  - (b) any benefit in favour of 2 or more persons is for the benefit of them jointly and each of them individually.

### **42 No Fetter**

---

- 42.1 Nothing in this Deed shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

### **43 Illegality**

---

- 43.1 If this Deed or any part of it becomes illegal, unenforceable or invalid as a result of any change to a law, the Parties are to co-operate and do all things necessary to ensure that an enforceable agreement of the same or similar effect to this Deed is entered into.

#### 44 Severability

---

- 44.1 If a clause or part of a clause of this Deed can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.
- 44.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Deed, but the rest of this Deed is not affected.

#### 45 Amendment

---

- 45.1 No amendment of this Deed will be of any force or effect unless it is in writing and signed by the Parties to this Deed in accordance with clause 25D of the Regulation.

#### 46 Waiver

---

- 46.1 The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, another Party.
- 46.2 A waiver by a Party is only effective if it is in writing.
- 46.3 A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

#### 47 GST

---

- 47.1 In this clause:

**Adjustment Note, Consideration, GST, GST Group, Margin Scheme, Money, Supply and Tax Invoice** have the meaning given by the GST Law.

**GST Amount** means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.

**GST Law** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Input Tax Credit** has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.

**Taxable Supply** has the meaning given by the GST Law excluding (except where expressly agreed otherwise) a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.

- 47.2 Subject to clause 47.4, if GST is payable on a Taxable Supply made under, by reference to or in connection with this Deed, the Party providing the Consideration

for that Taxable Supply must also pay the GST Amount as additional Consideration.

- 47.3 Clause 47.2 does not apply to the extent that the Consideration for the Taxable Supply is expressly stated in this Deed to be GST inclusive.
- 47.4 No additional amount shall be payable by the Council under clause 47.2 unless, and only to the extent that, the Council (acting reasonably and in accordance with the GST Law) determines that it is entitled to an Input Tax Credit for its acquisition of the Taxable Supply giving rise to the liability to pay GST.
- 47.5 If there are Supplies for Consideration which is not Consideration expressed as an amount of Money under this Deed by one Party to the other Party that are not subject to Division 82 of the GST Law, the Parties agree:
- (a) to negotiate in good faith to agree the GST inclusive market value of those Supplies prior to issuing Tax Invoices in respect of those Supplies; and
  - (b) that any amounts payable by the Parties in accordance with clause 47.2 (as limited by clause 47.4) to each other in respect of those Supplies will be set off against each other to the extent that they are equivalent in amount.
- 47.6 No payment of any amount pursuant to this clause 47, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note as the case may be to the recipient.
- 47.7 Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.
- 47.8 This clause continues to apply after expiration or termination of this Deed.

## **48 Explanatory Note**

---

- 48.1 The Appendix contains the Explanatory Note relating to this Deed required by clause 25E of the Regulation. Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Deed.

**Schedule 1**

---

**Development Contributions**

| <b>Item/Contribution</b> | <b>Public Purpose</b> | <b>Manner &amp; Extent</b> | <b>Timing</b> |
|--------------------------|-----------------------|----------------------------|---------------|
|--------------------------|-----------------------|----------------------------|---------------|

## Schedule 2

---

### Description of Land and Works

**Schedule 3**

---

**Dedication Plan**



## Schedule 4

---

### Location Plan

## Schedule 5

---

### Specifications

**EXECUTION**

**Executed** as a deed on

2016

**Signed sealed and delivered** for and on behalf  
of **Georges River Council ABN 57 789 014 855**  
by its General Manager pursuant to  
Section 683 of the *Local Government Act 1993*

.....  
General Manager

.....  
Witness

## Appendix C - Template Explanatory Note

---

### Explanatory Note

#### ***Environmental Planning and Assessment Regulation 2000 (Clause 25E)***

[**Note:** to be completed upon finalisation of Planning Agreement]

#### **Draft Planning Agreement**

Under s 93F of the *Environmental Planning and Assessment Act 1979*

#### **Parties**

Georges River Council

## (Developer)

#### **Description of Subject Land**

#### **Description of Proposed Change to Environmental Planning Instrument/Development Application**

#### **Summary of Objectives, Nature and Effect of the Draft Planning Agreement**

#### **Assessment of the Merits of the Draft Planning Agreement**

The Planning Purposes Served by the Draft Planning Agreement

How the Draft Planning Agreement Promotes the Objects of the *Environmental Planning and Assessment Act 1979*

How the Draft Planning Agreement Promotes the Public Interest

- (a) Council's Charter
- (b) How the Draft Planning Agreement Promotes the Elements of the Whether the Draft Planning Agreement Conforms with the Authority's Capital Works Program

The Impact of the Draft Planning Agreement on the Public or Any Section of the Public

Other Matters

#### **Signed and Dated by All Parties**

## Appendix D - Template condition of development consent

---

(Where planning agreement accompanied a development application)

- ##. Pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979*, the planning agreement that relates to the development application the subject of this consent must be entered into before [*Insert Requirement*].

(Where planning agreement accompanied an application to change an environmental planning instrument)

- ##. Pursuant to section 80A(1) of the *Environmental Planning and Assessment Act 1979*, the applicant must comply with the terms of the planning agreement that accompanied the application made by [*Insert Name of Developer*] to [*Insert Name of Planning Authority*] dated [*Insert Date*] relating to [*Specify Name of Environmental Planning Instrument*] for the purpose of the making of the development application the subject of this consent.

## Appendix E - Table of Residual Land Values

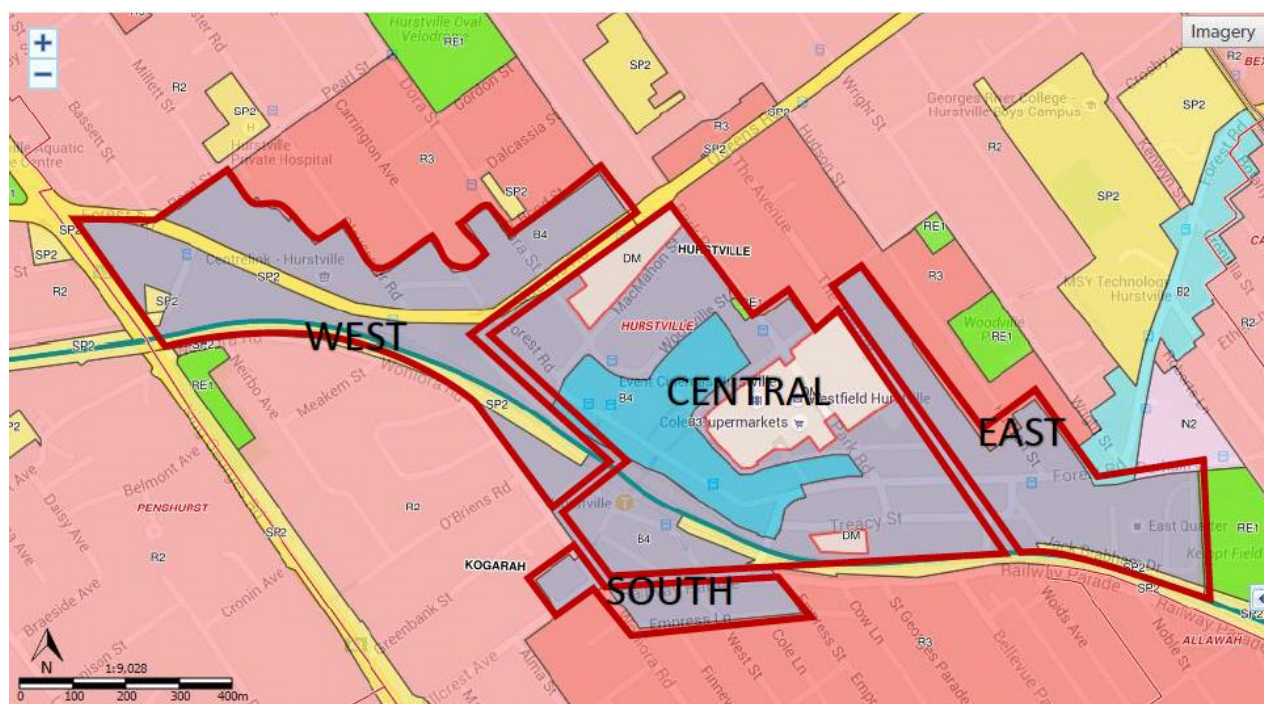
Residual Land Value (RLV) per square metres of floor space by precinct within Hurstville and Kogarah (as defined by the maps below)

| Use                 | Hurstville Central | Hurstville West | Hurstville East | Hurstville South | Kogarah Central | Kogarah West |
|---------------------|--------------------|-----------------|-----------------|------------------|-----------------|--------------|
| Retail              | \$5,000            | \$2,000         | \$2,000         | \$2,000          | \$3,500         | \$2,500      |
| Commercial (office) | \$1,750            | \$1,500         | \$1,500         | \$1,750          | \$2,000         | \$1,850      |
| Residential         | \$2,750            | \$2,500         | \$2,500         | \$2,750          | \$3,000         | \$2,750      |

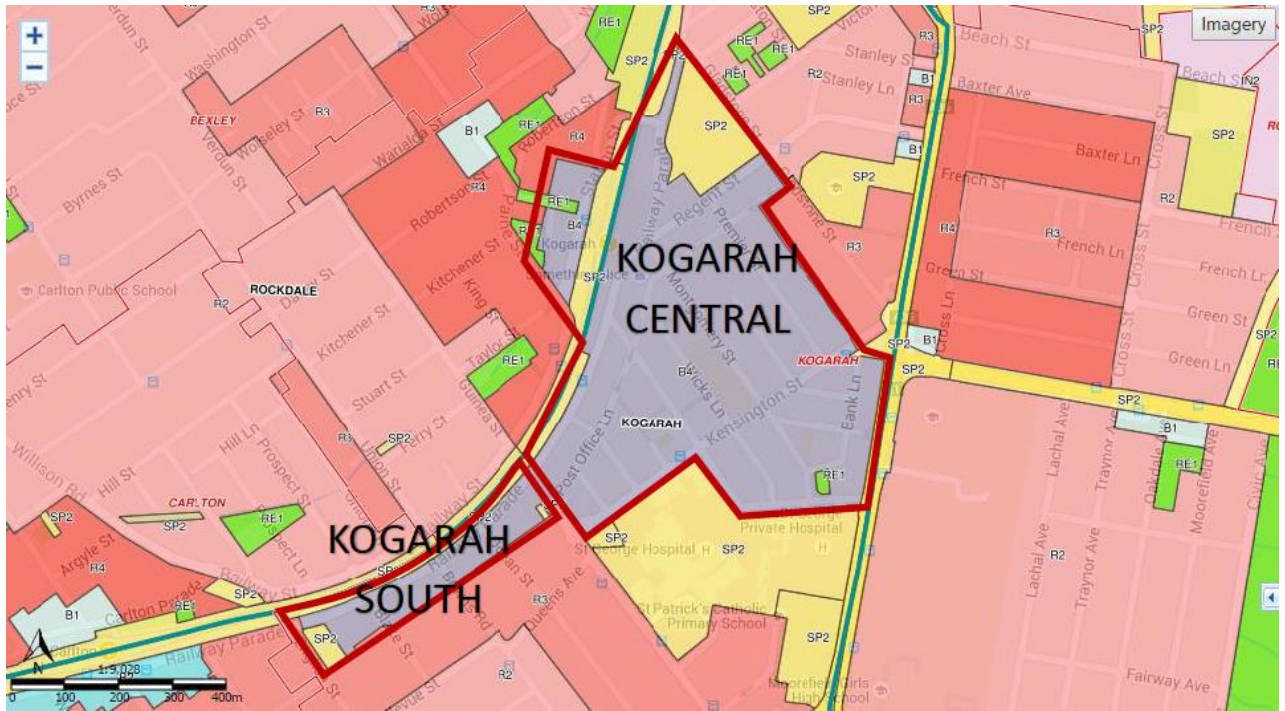
### Notes:

- i. The nominated per square metre rates in the Residual Land Value table above are averages for the relevant precincts.
- ii. The Residual Land Values will be updated and re-published on an as needs basis to account for changes in property markets that will influence the residual land values over time.
- iii. For all areas outside of the six precincts in the Residual Land Value table (as shown in the maps below), the developer will be required to provide the Council with sufficient details, costs and valuations to determine the applicable residual land values under the existing and proposed planning controls.

**Figure 1: Precincts – Hurstville Central, Hurstville West, Hurstville East and Hurstville South**



**Figure 2: Precincts – Kogarah Central and Kogarah SouthTown Centre**



## **Appendix F - Table of suggested infrastructure works that constitute a material public benefit within Council's LGA**

---

The following is a list of suggested infrastructure for works that constitute a material public benefit within the Council's LGA.

### **Infrastructure**

- (a) roads – design and construction;
- (b) accessibility improvements – accessible parking, kerb ramps, and modifications to public buildings or areas;
- (c) open space – parks, public places, embellishment;
- (d) drainage and storm water controls – drainage amplification, integrated water treatment facilities, large scale detention basins, overland flow paths and storm water channel improvements and sediment control measures;
- (e) traffic management measures:
  - (i) bus and traffic turning lanes;
  - (ii) public and “green” transport outcomes;
- (f) pedestrian and cycleway connections, through site links and footpaths;
- (g) communications and information technology such as WIFI in a public space;
- (h) bridges (vehicular and pedestrian);
- (i) undergrounding of overhead powerlines; and
- (j) public transport - works that facilitate and enhance existing public transport facilities such as bus layovers and turning lanes, bus stops.

### **Public Community Facilities**

- (a) community services – e.g. meeting rooms, halls, libraries;
- (b) child care and family health care centres;
- (c) public toilets;
- (d) youth spaces;
- (e) public leisure facilities;
- (f) performance spaces;
- (g) civic spaces;
- (h) public car parking areas;



- (i) bus shelters;
- (j) family care facilities;
- (k) sport, recreation and activity centres;
- (l) business, research and creative industries incubator space; and
- (m) affordable housing.

### **Public Open Space and Public domain improvements**

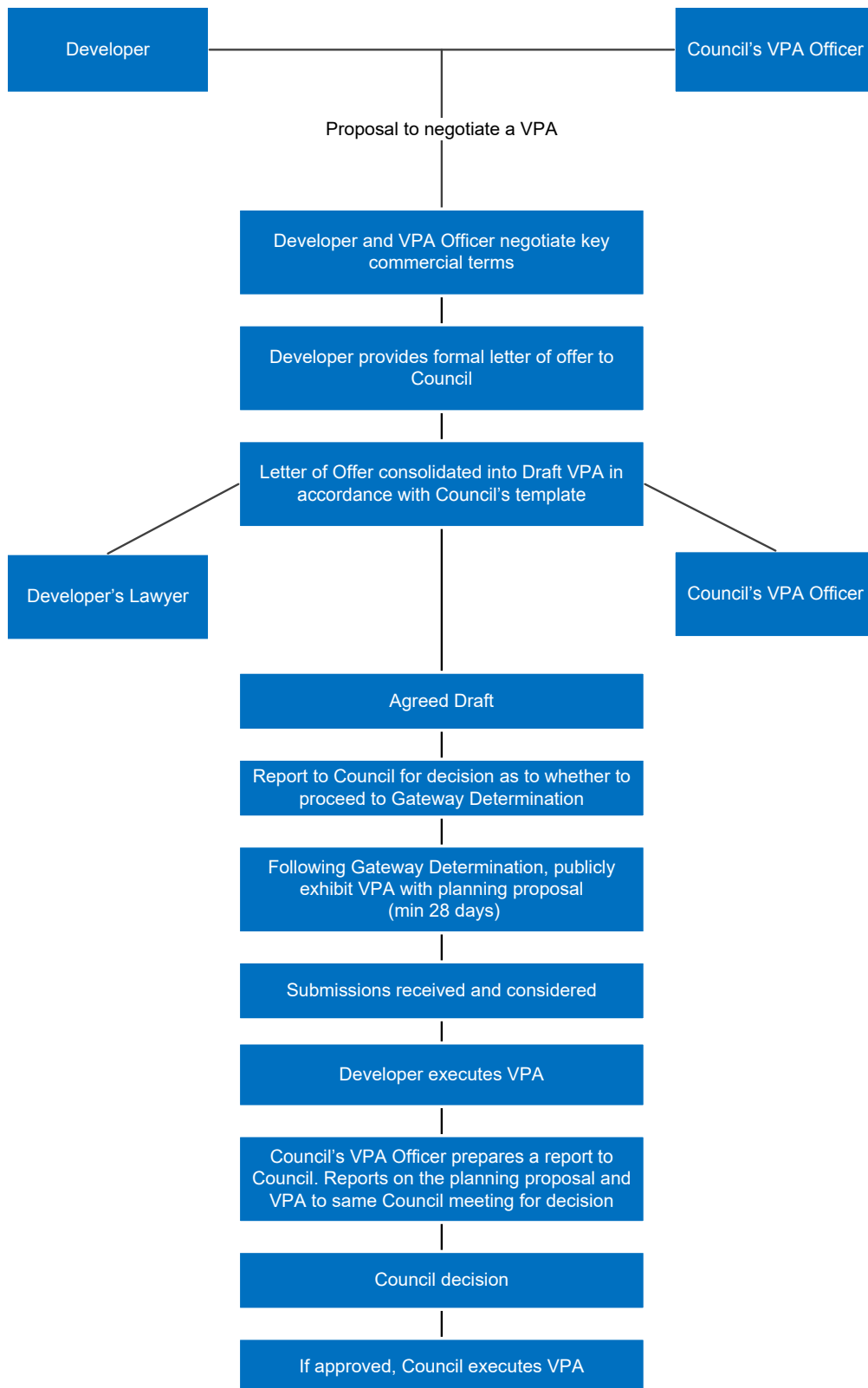
- (a) embellishment works to new or existing open space, including new play equipment, lighting, sports facilities, furniture and landscaping;
- (b) paving – paths, streets and open space areas;
- (c) plantings – streets and open space areas;
- (d) furniture – seats, bins;
- (e) banners;
- (f) public art in streets, open space and other public domain space;
- (g) kerbs and gutters;
- (h) treatment and/or features in public places;
- (i) facilities such as kiosk in parks and open spaces;
- (j) turf;
- (k) environmental management improvements such as water and energy minimising devices;
- (l) water bubblers, lockers and other amenities; and
- (m) signage including suburb identification, way finding, parking, interpretation and information signs for pedestrians, cyclists and vehicular users.

### **Other contributions**

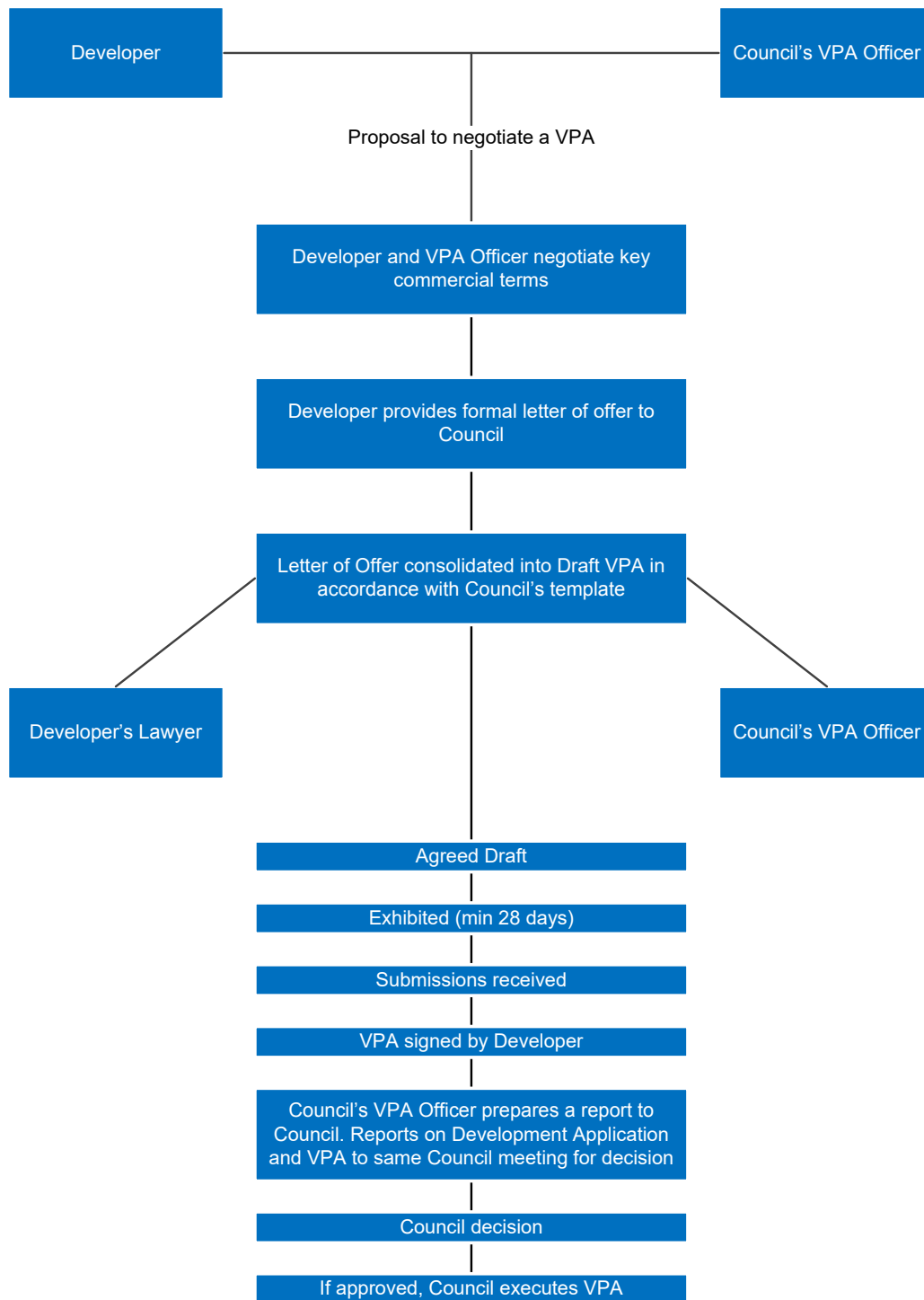
- (a) cash contributions;
- (b) land such as dedications for parks, facilities, pedestrian connectivity and new roads;
- (c) contributions for the development of community facilities plans and cultural facilities plans;
- (d) aboriginal site protection;

- (e) other benefits in line with Council plans and strategies - including plans of management, flood plan management plans, traffic and transport plans, masterplans, development controls plans and local environmental plan studies; and
- (f) other public benefits that provide a positive planning outcome for the community of Georges River and meet the objectives of the Act.

## Appendix G - VPA process where VPA relates to a planning proposal



## Appendix H - VPA process where VPA relates to a development proposal



1815000



**GEORGES  
RIVER  
COUNCIL**

# SISTER CITY POLICY

## POLICY ADMINISTRATION

|                                     |   |
|-------------------------------------|---|
| <b>Dates</b>                        | Policy approved 03/07//2017<br>This policy is effective upon its approval.<br>Policy is due for review July 2021  |
| <b>Approved by</b>                  | Council Meeting 03/07/2017<br>Council Resolution CCL136-17  |
| <b>Exhibition Period</b>            | 4 May to 31 May 2017  |
| <b>Policy Owner</b>                 | Manager Community and Cultural Development, Community and Culture   |
| <b>Related Documents</b>            | Georges River Council Mayor and Councillors Expenses and Facilities Policy (in development)<br>Georges River Council Code of Conduct (in development)   |
| <b>References &amp; Legislation</b> | <i>Sister Cities and International Alliances Research Paper</i> Australian Centre of Excellence for Local Government 2015   |
| <b>Document Identifier</b>          | Policy #: Pol-015.01<br>Doc #: D17/117832   |
| <b>Breaches of Policy</b>           | Breaches of any policy will be dealt with and responded to in accordance with adopted codes and/or relevant legislations.   |
| <b>Privacy</b>                      | All documents and information obtained in relation to the implementation of this policy will be kept in accordance with the NSW State Records Act 1998, Georges River Council's Corporate Records Policy and adopted internal procedures. |

## PURPOSE

Council's Sister City Policy guides the formation and maintenance of Sister City relationships between Council and other cities, both international and within Australia.

## SCOPE

This Policy applies to the formation and maintenance of all Sister City relationships whether initiated by Councillors, staff of Council or the Georges River community.

The Policy applies to all Councillors, staff of Council and community members carrying out their responsibilities as part of a Georges River Council Sister City relationship.

The Policy does not preclude Council from entering cooperative relationships with other metropolitan Councils, as required.

## DEFINITION OF TERMS

| Term               | Meaning   |
|--------------------|---|
| <i>Community</i>   | A term which encompasses both the entire body of constituents in the Council local government area or Sister City, and individual groups (whether they be cultural, sporting, industry or other) within the local government area or Sister City. |
| <i>Council</i>     | Georges River Council   |
| <i>Sister City</i> | A formally recognised mutually beneficial relationship between Council and another international or Australian city.  |

## POLICY STATEMENT

This Policy has been developed to ensure Council forms Sister City relationships which are meaningful, beneficial and accountable to the Georges River community.

### 1. Principles of Sister City Relationships

The following Principles provide the criteria for the establishment, maintenance and review of Sister City relationships.

1.1. Council's Sister City Relationships must meet all of the following criteria:

- a) are between cities which share historic, cultural, social, economic or geographic similarities or synergies;
- b) clearly demonstrate a meaningful reciprocal relationship or activity built on mutual respect, understanding and a commitment to shared objectives;

- c) are purposeful and established with clear motives, obligations, objectives and outcomes;
- d) show that the communities of both cities have a demonstrated commitment to, and interest in, forming and maintaining the relationship; and
- e) align with the Community Strategic Plan.

## **2. Establishment of Sister City**

2.1. A proposal to establish a Sister City, whether from the Georges River community or a potential Sister City, must be put forward to the General Manager with a rationale outlining the purpose of the relationship and how the relationship addresses the Principles of Sister City Relationships.

2.2. An interest or pre-existing relationship of a Councillor or Council staff with the proposed city must be declared. The proposal will be considered if any conflicts of interest are overcome.

2.3. In evaluating the proposal, the General Manager will consider:

- a) how the proposed Sister City relationship aligns to the Principles;
- b) the purpose of the relationship; and
- c) the relevance and value it has to the Georges River community.

2.4. The proposal will also be considered in relation to:

- a) Australian Federal and NSW government international programs, policies or relationships;
- b) the nature and scope of existing Council Sister City relationships; and
- c) Council's capacity to support and resource the proposed relationship.

2.5. The General Manager will develop an agreement (Memorandum of Understanding) between Georges River Council and the proposed Sister City based on the details of the relationship and the Principles of Sister City Relationships.

2.6. If approved by the General Manager, the new Sister City relationship must be formally adopted at a Council meeting.

## **3. Relationship Management**

3.1. The Principles are central to a Georges River Council Sister City relationship

3.2. Council acknowledges that delegations and face to face contact are only one aspect of maintaining a Sister City relationship.

3.3. A Sister City Relationship must:



- a) have Council support and acknowledge the primary role of the Mayor;
- b) be fully accountable to the *Draft Councillor Expenses and Facilities Policy*, (currently called *Payment of Expenses and the Provision of Facilities to the Mayor and Councillors Policy adopted May 2016*) former Hurstville City Council and Kogarah City Council *Gifts and Benefits Policies*, and the *Code of Conduct*;
- c) demonstrate measurable ongoing Council and community activity, relevance and benefits throughout the relationship;
- d) be adaptable to meet changing community needs
- e) be reviewed and can be exited if Council and community outcomes are not demonstrated; and
- f) be established on a fixed term (of five years) with renewal dependent on successful evaluation.

#### **4. Budget and Expenses**

4.1. The budget and approved expenses are managed in accordance to this Policy and the Draft Councillors' Expenses and Facilities Policy.

#### **5. Gifts**

5.1. The receiving of gifts will be in accordance with the Gifts and Benefits Policy as amended from time to time.

#### **6. Evaluation and Review**

6.1. A robust review by the General Manager will be undertaken at the end of the Sister City term (of five years or as defined in the Memorandum of Understanding) in which the motives, obligations, objectives and outcomes stated at establishment are evaluated.

6.2. A review of the relationship may also be undertaken mid-term if:

- a) the relationship appears to have stalled or there are no demonstrable community outcomes of the relationship
- b) the Sister City Relationship Principles are not met or are breached.

6.3. The outcomes of the review will determine whether the Sister City relationship continues for another term, or is exited.

6.4. A Sister City relationship may be successfully evaluated each fixed term and continue over many years.

## RESPONSIBILITIES

| Position   | Responsibility   |
|--|--|
| <i>General Manager</i>   | <ul style="list-style-type: none"> <li>• Accept proposals for Sister City relationships</li> <li>• Consider proposals as outlined in Item 2. Establishment of Sister City in light of the Principles of Sister City Relationships</li> <li>• Approve if appropriate and prepare a Memorandum of Understanding based on the details of the relationship for Council approval</li> <li>• Direct appropriate Council staff to undertake the activities to achieve the agreed purpose of the relationship</li> <li>• Prepare and approve budget and expenses for Sister City relationships to achieve the agreed purpose, including the obligations, objectives and outcomes</li> <li>• Undertake an evaluation of Sister City Relationship as outlined in the policy after the prescribed period (usually five years) and recommend whether the relationship be renewed or exited.</li> </ul> |
| <i>Mayor and Councillors</i>   | <ul style="list-style-type: none"> <li>• Support Sister City relationships which are adopted by Council</li> <li>• Fulfil civic responsibilities and relationships to maintain the Sister City relationship</li> <li>• Be accountable to related policies including Georges River Council Code of Conduct (in development at time of adoption) and Georges River Council Mayor and Councillors Expenses and Facilities Policy (in development at time of adoption).</li> </ul>   |
| <i>Council Staff</i>   | <ul style="list-style-type: none"> <li>• Implement the obligations, objectives and outcomes of Sister City relationships as directed by the General Manager and outlined in the Memorandum of Understanding</li> </ul>   |
| <i>Community Organisations initiating a Sister City relationship</i> | <ul style="list-style-type: none"> <li>• Prepare a proposal to Council's General Manager with a rationale outlining the purpose of the relationship and how the relationship addresses the Principles of Sister City Relationships.</li> <li>• Be familiar with the Sister City Policy and use this as a guide in the establishment, maintenance and evaluation of the Sister City relationship</li> <li>• Undertake the required activities to achieve the agreed purpose and details of the Sister City relationship as outlined in the Memorandum of Understanding</li> </ul>   |

## VERSION CONTROL AND CHANGE HISTORY

| Version | Amendment Details                            | Policy Owner                               | Period Active |
|---------|--|--|---------------|
| 1.0     | New Georges River Council Sister City Policy | Manager Community and Cultural Development | 03/07/2017    |



# CODE OF MEETING PRACTICE

*August 2017*

**POLICY ADMINISTRATION**

|                                     |  |
|-------------------------------------|--|
| <b>Dates</b>                        | Policy approved 07/08/2017<br>This policy is effective upon its approval<br>Policy is due for review August 2019   |
| <b>Approved by</b>                  | Council Meeting 05/06/2017 and 07/08/2017<br>Council Resolution CCL161-17  |
| <b>Exhibition Period</b>            | 6/06/2017 to 28/07/2017  |
| <b>Policy Owner</b>                 | Executive Manager, Office of the General Manager   |
| <b>Related Documents</b>            | Georges River Council's Code of Conduct<br>Georges River Council's Drug and Alcohol Policy   |
| <b>References &amp; Legislation</b> | Local Government Act, 1993 as amended<br>Local Government (General) Regulation 2005<br>Office of Local Government Practice Note 16, August 2009<br>Office of Local Government Circular to Councils 10-10<br>Bluett's Local Government Handbook New South Wales (2012; 17th edition; D Clark)<br>Guide for Meetings and Organisations Volume 2: Guide for Meetings (2005; 8th edition; N E Renton)<br>OLG Model Code of Meeting Practice 2017 |
| <b>Document Identifier</b>          | Policy #: Pol-027.01<br>Doc #: D17/146328  |
| <b>Breaches of Policy</b>           | Breaches of any policy will be dealt with and responded to in accordance with adopted codes and/or relevant legislation.   |
| <b>Record Keeping</b>               | All documents and information obtained in relation to the implementation of this policy will be kept in accordance with the NSW State Records Act 1998, Georges River Council's Corporate Records Policy and adopted internal procedures.  |

## Table of Contents

|       |   |    |
|-------|---|----|
| 1     | PRELIMINARY .....   | 5  |
| 1.1   | Purpose of this policy.....   | 5  |
| 1.2   | Scope 5   |    |
| 1.3   | Definition of Terms.....  | 5  |
| 1.4   | Webcasting.....   | 6  |
| 2     | CONVENING OF AND ATTENDANCE AT COUNCIL MEETINGS .....                         | 7  |
| 2.1   | Frequency of meetings of the Council.....                                     | 7  |
| 2.2   | Extraordinary Meetings.....   | 7  |
| 2.3   | Notice of meetings.....   | 7  |
| 2.4   | Quorum (S368).....  | 8  |
| 2.5   | What happens when a quorum is not present - (cl 233 Regs).....                | 8  |
| 2.6   | Presence at Council meetings (includes Leave of Absence).....                 | 8  |
| 3.    | PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS .....                           | 9  |
| 3.1   | Chairperson of Council meetings .....   | 9  |
| 3.2   | Chairperson to have precedence .....  | 9  |
| 3.3   | Chairperson's duty with respect to motions .....                              | 9  |
| 3.4   | Keeping and Confirmation of Minutes .....                                     | 10 |
| 3.5   | Order of business .....   | 10 |
| 3.6   | Agenda and Business papers for Council meetings .....                         | 11 |
| 3.7   | Giving notice of business .....   | 11 |
| 3.8   | Business paper for extraordinary meeting .....                                | 12 |
| 3.9   | Official minutes (Mayoral Minute) .....                                       | 13 |
| 3.10  | Report of a Departmental Representative to be tabled at Council meeting ..... | 13 |
| 3.11  | Notice of motion – absence of mover .....                                     | 13 |
| 3.12  | Motions to be seconded .....  | 14 |
| 3.13  | How subsequent amendments may be moved .....                                  | 14 |
| 3.14  | Motions of Dissent .....  | 14 |
| 3.15  | Petitions may be presented to the Council .....                               | 15 |
| 3.16  | Questions may be put to Councillors and Council employees .....               | 15 |
| 3.17  | Questions With Notice (QWN) .....   | 15 |
| 3.18  | Mode of address .....   | 16 |
| 3.19  | Limitation as to number of speeches .....                                     | 16 |
| 3.20  | Motions put without debate .....  | 16 |
| 3.21  | Voting at Council meetings .....  | 17 |
| 3.22  | Decisions of the Council .....  | 18 |
| 3.23  | Rescinding or altering resolutions (S372) .....                               | 18 |
| 3.24  | Rescission Motion Format .....  | 19 |
| 3.25  | Motions of adjournment .....  | 19 |
| 3.26  | Time Limit on Council Meetings .....  | 19 |
| 4.    | KEEPING ORDER AT MEETINGS .....   | 20 |
| 4.1   | Questions of order .....  | 20 |
| 4.2   | Acts of disorder .....  | 20 |
| 4.3   | How disorder at a meeting may be dealt with .....                             | 21 |
| 4.4   | Power to remove persons from meeting after expulsion resolution .....         | 21 |
| 4.4.1 | Formal censure of councillor for misbehaviour .....                           | 21 |
| 4.4.2 | Formal censure of Councillor for breach of a Council Code or Policy .....     | 22 |
| 5.    | COUNCIL COMMITTEES .....  | 23 |
| 5.1   | Committee of the Whole and Closed session .....                               | 23 |
| 5.2   | Council may appoint committees and determine frequency of meetings .....      | 23 |
| 5.3   | Functions of committees .....   | 24 |
| 5.4   | Notice of committee meetings to be given .....                                | 24 |

|      |  |    |
|------|--|----|
| 5.5  | Non-members entitled to attend committee meetings .....  | 24 |
| 5.6  | Procedure in committees .....  | 25 |
| 5.7  | Chairperson and deputy chairperson of committees .....   | 25 |
| 5.8  | Absence from committee meetings .....  | 25 |
| 5.9  | Reports of committees .....  | 26 |
| 5.10 | Disorder in committee meetings .....   | 26 |
| 5.11 | Committee may expel certain persons from its meetings .....  | 26 |
| 6.   | CONFLICT OF INTERESTS .....  | 27 |
| 6.1  | Pecuniary interest .....   | 27 |
| 6.2  | Persons who have a pecuniary interest .....  | 28 |
| 6.3  | Interests that need not be declared .....  | 29 |
| 6.4  | Participation in meetings despite pecuniary interests .....  | 30 |
| 6.5  | Disclosures to be recorded .....   | 32 |
| 6.6  | Powers of the Council in relation to meetings .....  | 32 |
| 7.   | PRESS AND PUBLIC .....   | 33 |
| 7.1  | Public notice of meetings .....  | 33 |
| 7.2  | Public attendance at Council meetings and closure of meetings into confidential session .....          | 33 |
| 7.3  | Public participation and addresses at Council and Committee meetings .....                             | 34 |
| 7.4  | Privacy and Personal Information Protection Notification .....   | 36 |
| 7.5  | Public access to correspondence and reports .....  | 36 |
| 8.   | MISCELLANEOUS .....  | 38 |
| 8.1  | Information relating to proceedings at closed meetings not to be disclosed                             | 38 |
| 8.2  | Inspection of the minutes of the Council or a committee .....  | 38 |
| 8.3  | Recording of meeting of the Council or a committee prohibited .....                                    | 38 |
| 8.4  | Recording of meeting by the Council or a committee .....   | 38 |
| 8.5  | Certain circumstances do not invalidate Council decisions .....  | 39 |
| 8.6  | Amendment of Code .....  | 39 |
|      | SCHEDULE 1 - General order of business .....   | 40 |
|      | SCHEDULE 2 - Order of Business at Extraordinary Meetings of the Council .....                          | 41 |
|      | SCHEDULE 3 - Notice of Rescission Motion / Notice of Alternative Motion .....                          | 42 |
|      | SCHEDULE 3A - Form of Special Disclosure of Pecuniary Interest .....                                   | 43 |
|      | SCHEDULE 4 - Registration to Address the Georges River Council at a Council or Committee meeting ..... | 46 |
| 9.   | Responsibilities .....   | 47 |
| 10.  | Version Control and Change History .....   | 47 |

# 1 PRELIMINARY

## 1.1 Purpose of this policy

The purpose of this policy is to ensure Council meetings are run effectively.

## 1.2 Scope

This policy applies to all Meetings of Council.

## 1.3 Definition of Terms

| <b>Term</b>             | <b>Meaning</b>  |
|-------------------------|---|
| <i>Councillor</i>       | Refers to all Councillors of Georges River Council including the Mayor and Deputy Mayor.  |
| <i>amendment</i>        | In relation to an original motion, means a motion moving an amendment to that motion.   |
| <i>chairperson</i>      | (a) in relation to a meeting of the Council - means the person presiding at the meeting as provided by clause 3.1 of this Code; and<br>(b) in relation to a meeting of a committee - means the person presiding at the meeting as provided by clause 5.7 of this Code.              |
| <i>the Act</i>          | The Local Government Act 1993. (as amended). In the event of any inconsistency between the Code and the Act or the Regulation, the Act or the Regulation (as the case may be) prevails to the extent of the inconsistency.  |
| <i>the Regulation</i>   | The Local Government (General) Regulation 2005.   |
| <i>the Code</i>         | The Georges River Council Code of Meeting Practice.   |
| <i>committee</i>        | Refers to a committee appointed or elected by the Council in accordance with clause 5.2 or the Council when it has resolved itself into a committee of the whole.   |
| <i>leave of Council</i> | Means with the approval of Council.   |
| <i>record</i>           | Refers to a document (including any written or printed material) or object (including a sound recording, coded storage device, magnetic tape or disc, microfilm, photograph, film, map, plan or model or a painting or other pictorial or graphic work) that is or has been made or |



|                                     |  |
|-------------------------------------|--|
|                                     | received in the course of official duties by a Councillor or an employee of the Council and, in particular, includes the minutes of meetings of the Council or of a committee of the Council.  |
| <i>Misbehaviour of a Councillor</i> | <p>Means any of the following:</p> <p>(a) a contravention by the Councillor of the Local Government Act or the regulations.</p> <p>(b) a failure by the Councillor to comply with an applicable requirement of a code of conduct as required under section 440 (5), of the Local Government Act.</p> <p>(c) an act of disorder committed by the Councillor at a meeting of the council or a committee of the council, but does not include a contravention of the disclosure requirements of Part 2 of Chapter 14 of the Local Government Act.</p> <p>Note: A contravention of the disclosure requirements of Part 2 of Chapter 14 is dealt with under other provisions of the Act.</p> <p>A reference in this Code to misbehaviour or an incident of misbehaviour includes a reference to misbehaviour that consists of an omission or failure to do something.</p> |
| <i>Accompanying Person</i>          | A person who has a close personal relationship with the Councillor and/or provides carer support to the Councillor.  |

## 1.4 Webcasting

Council Meetings held within the Council Chambers at the Georges River Council Civic Centre, will be webcast live.

Confidential sessions of Council meetings which are closed to the public in accordance with section 10A of the Local Government Act (1993) will not be broadcast.

Council will maintain an online library on Council's website of webcast meetings as a history of the operation of the Council, for a period of six months. These will be viewable via Council's website.

Council accepts no responsibility for any defamatory or offensive statements transmitted in the course of webcasting its meetings.

A fault in the technology or an inability to webcast a meeting will not invalidate decisions from the meeting.

## 2 CONVENING OF AND ATTENDANCE AT COUNCIL MEETINGS

### 2.1 Frequency of meetings of the Council

The Council is required to meet at least 10 times each year, each time in a different month. (S365)

The Council shall, by resolution, set the time, date and place of meetings of the Council.

**Note:** *The Council normally meets on the first Monday of the month, with meetings customarily commencing at 6:00pm*

### 2.2 Extraordinary Meetings

- (1) The Mayor may call extraordinary meetings of the Council.
- (2) (a) If the Mayor receives a request in writing signed by at least 2 councillors, the Mayor must call an extraordinary meeting of the Council to be held as soon as practicable but in an event within fourteen (14) days after the receipt of the request.
  - (b) If the mayor proposes to call an Extraordinary Meeting, all Councillors must be consulted by letter, facsimile, or electronic mail and given a minimum of eight hours in which to respond prior to the Mayor setting a time for the proposed meeting. The notice to Councillors must include the proposed time and date of the Meeting, the business to be transacted and the reason why the business cannot be dealt with at the next ordinary Meeting of the Council.
- (3) If the Mayor fails, within one day of receipt of a request pursuant to subclause (2), to give a direction to the General Manager for the sending of notices to councillors for an extraordinary meeting to be held within the period specified in subclause (2), the General Manager must send a notice to each councillor specifying that the meeting be held on the last working day that would fall within the period specified in subclause (2).
- (4) For the purpose of subclauses (2) and (3), a working day is a day that is not a Saturday, Sunday or public holiday.

**Note:** *Extraordinary Council Meetings may be called by the Administrator as required.*

### 2.3 Notice of meetings

- (1) The General Manager of a Council must send to each Councillor, at least 3 “clear” \* days before each meeting of the Council, a notice specifying the time and place at which and the date on which the meeting is to be held and the business proposed to be transacted at the meeting. (S367 [1])
- (2) The notice of meeting will be provided electronically to Councillors, who will have been provided the facilities to access the notice, agenda and business papers (S367[3]).
- (3) Notice of less than 3 “clear” days’ may be given of an extraordinary meeting called in an emergency, but in no case shall notice of less than one day be given (S367 [2]).
- (4) For the purpose of this Clause, 3 days’ notice before a meeting of the Council includes a Saturday, Sunday and/or a Public Holiday.

**\* Note:** *Notice under this section must be provided at least 3 “clear” days prior to the meeting, not including the date of notification **or** the date of the meeting. This is as provided as defined in Cl 36(1) of The Interpretation Act 1987.*

## **2.4 Quorum (S368)**

The quorum for a meeting of the Council is the Administrator when an Administrator is in place, otherwise a majority of the Councillors of the Council who hold office for the time being and are not suspended from office.

## **2.5 What happens when a quorum is not present - (cl 233 Regs)**

- (1) A meeting of the Council must be adjourned if a quorum is not present:
  - (a) within half an hour after the time designated for the holding of the meeting;  
or
  - (b) at any time during the meeting.
- (2) In either case, the meeting must be adjourned to a time, date and place fixed:
  - (a) by the chairperson; or
  - (b) in his or her absence by the majority of the Councillors present; or
  - (c) failing that, by the General Manager.
- (3) The General Manager must record in the Council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the Council, together with the names of the Councillors present.

## **2.6 Presence at Council meetings (includes Leave of Absence)**

A Councillor cannot participate in a meeting of the Council unless personally present at the meeting. (cl 235 Regs)

### 3. PROCEDURE FOR THE CONDUCT OF COUNCIL MEETINGS

#### 3.1 Chairperson of Council meetings

- (1) The Mayor or, at the request of or in the absence of the Mayor, the Deputy Mayor shall preside at meetings of the Council.
- (2) If the Mayor and the Deputy Mayor are absent, a Councillor shall be elected to chair the meeting by the Councillors present and following such election shall preside at the meeting of the Council.

**Note:** (S369)

- (3) If no chairperson is present at a meeting of the Council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at the meeting.
- (4) The election must be conducted:
  - a. by the General Manager or, in his or her absence, an employee of the Council designated by the General Manager to conduct the election; or
  - b. if neither of them is present at the meeting or there is no General Manager or designated employee by the person who called the meeting or a person acting on his or her behalf.
- (5) If, at an election of a chairperson, 2 or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- (6) For the purposes of subclause (3), the person conducting the election must:
  - a. arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
  - b. then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- (7) The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

**Note:** (cl 236 Regs)

#### 3.2 Chairperson to have precedence

When the chairperson rises or speaks during a meeting of the Council:

- (a) any Councillor then speaking or seeking to speak must immediately resume his or her seat, if standing; and
- (b) every Councillor present must be silent to enable the chairperson to be heard without interruption.

**Note:** (cl 237 Regs)

#### 3.3 Chairperson's duty with respect to motions

- (1) It is the duty of the chairperson at a meeting of the Council to receive and put to the meeting any lawful motion that is brought before the meeting.

- (2) The chairperson must rule out of order any motion that is unlawful or the implementation of which would be unlawful.
- (3) Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been rejected.

**Note:** (cl 238 Regs)

### 3.4 Keeping and Confirmation of Minutes

- (1) The Council must ensure that full and accurate minutes are kept of proceedings of the Council.
- (2) The General Manager must ensure that the following matters are recorded in the Council's minutes:
  - a. details of each motion moved at a Council meeting and of any amendments moved to it,
  - b. the names of the mover and seconder of the motion or amendment,
  - c. whether the motion or amendment is passed or lost.
  - d. the record of votes for and against matters relating to Planning (S375A).

**Note:** *Section 375 (1) of the Act requires a Council to ensure that full and accurate minutes are kept of the proceedings of a meeting of the Council [other provisions of this Regulation and of the Act require particular matters to be recorded in a Council's minutes].*

- (3) The accuracy of the minutes of every preceding meeting, including extraordinary meetings, not previously confirmed must be dealt with at the next meeting of the Council, in order that such minutes may be confirmed.
- (4) A motion or discussion with respect to such minutes shall not be in order except with regard to their accuracy as a true record of the proceedings.
- (5) Minutes may be confirmed at an extraordinary meeting of the Council.
- (6) The minutes must, when they have been confirmed at a subsequent meeting of the Council, be signed by the person presiding at that subsequent meeting.

### 3.5 Order of business

- (1) At a meeting of the Council (other than an extraordinary meeting), the general order of business shall be in accordance with Schedule 1 of this Code.
- (2) Matters of Privilege referred to in Schedule 1 Item 8 are to be confined to condolences, congratulations, presentations and matters ruled by the chairperson to be of extreme urgency and a maximum time limit of five (5) minutes is imposed on any issue raised as a matter of privilege.
- (3) The order of business fixed under subclause (1) may be altered if a motion to Suspend Standing Orders (order of business) to that effect is carried, following which, Standing Orders (order of business) shall be resumed.
- (4) Notwithstanding Clause 3.19, only the mover of a motion referred to in subclause (3) may speak to the motion before it is put.

- (5) Council Meeting Reports referred to in item 11 of Schedule 1 may relate to any matters needing the Council's consideration, which have not had an opportunity to be considered through a Committee process. The General Manager or Acting General Manager has the sole discretion for referring reports through this process. In addition, reports requiring consideration in Closed Session (Committee of the Whole) will be referred to under this item.

### 3.6 Agenda and Business papers for Council meetings

- (1) The General Manager must ensure that the agenda for a meeting of the Council states:
- a. all matters to be dealt with arising out of the proceedings of former meetings of the Council, and
  - b. if the mayor is the chairperson - any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
  - c. subject to subclause (2), any business of which due notice has been given.

The General Manager must not include in the agenda for a meeting of the Council any business of which due notice has been given if, in the opinion of the General Manager, the business is (or the implementation of the business would be) unlawful. The General Manager must report (without giving details of the item of business) any such exclusion to the next meeting of the Council.

- (2) The General Manager must cause the agenda for a meeting of the Council or a committee of the Council to be prepared as soon as practicable before the meeting.
- (3) The General Manager must ensure that the details of any item of business to which section 9 (2A) of the Act applies are included in a business paper for the meeting concerned.
- (4) Nothing in this clause limits the powers of the chairperson under clause 3.9.

**Note:** (cl 240 Regs)

### 3.7 Giving notice of business

- (1) The Council must not transact business at a (Monday) meeting of the Council:
- unless a Councillor has given notice of the business in writing or electronic mail by noon of the Wednesday immediately preceding the meeting; and
  - unless notice of business has been sent to the Councillors at least 3 days before the meeting, or, in the event of an extraordinary meeting called in an emergency, at least one day.

**Note:** *Notice under this section must be provided at least 3 "clear" days prior to the meeting, not including the date of notification or the date of the meeting. This is as provided in Cl 2.3 of Council's Code of Meeting Practice and as defined in Cl 36(1) of The Interpretation Act 1987.*

- in the case of a motion to censure a Councillor, despite paragraphs (a) &

(b), unless written notice of that motion has been given to the affected Councillor not less than 7 days prior to the noon of the Wednesday immediately preceding the (Monday) meeting at which the proposed motion is to be put.

- (2) Sub-clause (1) does not apply to:
- a. business which is already before, or directly relates to a matter that is already before, the Council;
  - b. the election of a chairperson to preside at the meeting as provided by Clause 3;
  - c. a matter or topic put to the meeting by the Chairperson in accordance with Clause 3.9;
  - d. is a motion for the adoption of recommendations of committees of the Council;
  - e. reports from officers which in the opinion of the chairperson or the General Manager are urgent; and
  - f. reports from officers placed on the business paper pursuant to a decision of a committee that additional information be provided to the Council in relation to a matter before the committee.
- (3) Despite sub-clause (1), business may be transacted at a meeting of the Council when due notice of the business has not been given to Councillors, but only if:
- a. a motion is passed to have the business transacted at the meeting (Such a motion can be moved without notice); and
  - b. the business proposed to be brought forward is ruled by the chairperson to be of great urgency; and
  - c. in regard to consideration of a development application all Councillors (disregarding any casual vacancies) vote in favour of the business being transacted.
- (4) Despite clause 3.19, only the mover of a motion referred to in subclause (3) can speak to the motion before it is put.
- (5) Where, in addition to a Notice of Business provided by a Councillor as detailed in Clause 3.7 (1) or 3.7 (3), the General Manager considers a Notice of Business has legal, strategic, financial or policy implications which need to be taken into account, the General Manager may put forward a recommendation with a Notice of Business that the matter be deferred pending a report from officers. If in the opinion of the General Manager a report needs to be presented to Council to assist Councillors with consideration of the notice of motion, and if time permits, the General Manager may include a report in the business paper.

**Note:** *(cl 241 Regs)*

### **3.8 Business paper for extraordinary meeting**

- (1) The General Manager must ensure that the business paper for an extraordinary meeting of the Council deals only with the matters stated in the notice of the meeting.
- (2) Despite subclause (1), business may be transacted at an extraordinary meeting of the council even though due notice of the business has not been given to the Councillors if:
  - a. a motion is passed to have the business transacted at the meeting; and

- b. the business proposed to be brought forward is ruled by the chairperson to be of great urgency. Such a motion can be moved without notice.
  - c. Such a motion can be moved without notice but only after the business notified in the agenda for the meeting has been disposed of.
- (3) Despite clause 3.19, only the mover of a motion referred to in subclause (2) can speak to the motion before it is put.

**Note:** (cl 242 Regs)

### 3.9 Official minutes (Mayoral Minute)

- (1) If the Mayor (or the Deputy Mayor, if acting for the Mayor) is the chairperson at a meeting of a Council, the chairperson is, by minute signed by the chairperson, entitled to put to the meeting any matter or topic that is within the jurisdiction of the Council or of which the Council has official knowledge.
- (2) Such a minute, when put to the meeting, takes precedence over all business on the Council's business paper for the meeting. The chairperson (but only if the chairperson is the Mayor, or the Deputy Mayor, if acting for the Mayor) may move the adoption of the minute without the motion being seconded.
- (3) A recommendation made in a minute of the chairperson (being the Mayor, or Deputy Mayor, if acting for the Mayor) or in a report made by a Council employee is, so far as adopted by the Council, a resolution of the Council.

**Note:** (cl 243 Regs)

- (4) The Mayor shall make every effort to make available a Mayoral Minute as early as possible prior to a meeting at which it is to be considered.

### 3.10 Report of a Departmental Representative to be tabled at Council meeting

When a report of a Departmental Representative has been presented to a meeting of a Council in accordance with section 433 of the Act, the Council must ensure that the report:

- (a) is laid on the table at that meeting; and
- (b) is subsequently available for the information of Councillors and members of the public at all reasonable times.

**Note:** (cl 244 Regs)

### 3.11 Notice of motion – absence of mover

- (1) In the absence of a Councillor who has placed a notice of motion (cl 245 Regs) on the business paper for a meeting of the Council:
  - a. any other Councillor may move the motion at the meeting; or
  - b. the chairperson may defer the motion until the next meeting of the Council at which the motion can be considered.
- (2) Notices of Motion are to be submitted to be received by the General Manager by noon, on the Wednesday prior to the (Monday) Council meeting.



- (3) The General Manager (or relevant council officer) may add comments to the Notice of Motion to provide additional information or to clarify factual matters. Updated versions of items amended after initial publication of the business paper are to be provided to the public gallery.

**Note:** *Under clause 240 (2) of the Local Government (General) Regulations, the General Manager still has the right to exclude a Notice of Motion, if in the opinion of the General Manager, the business is or the implementation of the business would be unlawful.*

### 3.12 Motions to be seconded

- (1) A motion or an amendment cannot be debated unless or until it has been seconded. However, the mover of a motion may be allowed by the chairperson to speak to the motion before calling for the motion to be seconded. This clause is subject to clauses 11 (2) and 21 (5).
- (2) The seconder of a motion or of an amendment may reserve the right to speak later in the debate.

### 3.13 How subsequent amendments may be moved

If an amendment has been accepted or rejected, a further amendment can be moved to the motion in its original or amended form (as the case may be), and so on, but no more than one motion and one proposed amendment can be before the Council at any one time. (cl 247 Regs).

It is permissible to debate the motion and an amendment concurrently.

It is permissible during the debate on an amendment for a further amendment to be foreshadowed. However, any such foreshadowed amendment shall not be moved and debated until the amendment is dealt with.

### 3.14 Motions of Dissent

A Councillor can, without notice, move to dissent from the ruling of the chairperson on a point of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.

In the event of a motion of dissent being moved, the chairperson may remain in the chair during consideration of such motion by the Council and, if necessary, exercise his/her casting vote in accordance with Clause 3.21 (3) of this Code.

If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been discharged as out of order, the chairperson must restore the motion or business to the business paper and proceed with it in due course.

Despite clause 3.19, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

**Note:** *(cl 248 Regs)*

### 3.15 Petitions may be presented to the Council

A Councillor may present a petition to the Council.

The Chairperson must not permit discussion on the petition, unless it relates to an item on the business paper. Petitions shall be referred to the General Manager for referral to an appropriate officer for report, or reply after appropriate action.

### 3.16 Questions may be put to Councillors and Council employees

A Councillor:

- (a) may, through the chairperson, put a question to another Councillor; and
- (b) may, through the chairperson and the General Manager, put a question to a Council employee.

However, a Councillor or Council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.

Any such question shall be in writing and must be put directly, succinctly, and without argument.

The chairperson must not permit discussion on any reply or refusal to reply to a question put to a Councillor or Council employee under this clause.

**Note:** (cl 249 Regs)

Nothing in this clause affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting.

### 3.17 Questions With Notice (QWN)

- (1) Questions With Notice are to be submitted electronically and to be received by the Executive Services Officer by 12:00 noon, seven (7) days prior to the Council meeting. Updated versions of items amended after initial publication of the business paper are to be provided to the public gallery at the meeting and are available electronically to Councillors and to the public on-line
- (2) The relevant council officer will endeavour to provide a written response within the business paper at the time of publication, if time permits, or up to the evening prior to the Council meeting. If an answer cannot be provided in this manner or at the Council meeting the QWN would be taken on notice for a report to a subsequent meeting.

**Note:** *These questions are not subject to public address*

- (3) Councillors should forward by email issues of operational concern raised by constituents to the General Manager, or the relevant authorised contact officer to enable matters to be dealt with at the earliest opportunity rather than submitting them as Questions With Notice.
- (4) Questions With Notice should be restricted to matters of Council Business (Policy). Other issues should be addressed through other forums. Matters of concern or disciplinary matters regarding Councillors or staff actions / behaviours will not be dealt with under Questions With Notice but rather through the General Manager in accordance with the Council's Code of Conduct.

- (5) Where Questions *without* Notice are raised at a Council Meeting and are “taken on notice”, the question and its response are to be referred to the next Council meeting in the form of a report.

**Note:** *Questions With Notice was implemented in accordance with Cl 241 of the Local Government (General) Regulations 2005, OLG Meeting Practice Note 16 (2009) and OLG Circular to Councils 10-10*

### 3.18 Mode of address

Councillors shall at all times address other Councillors by their official designation, as Mayor or Councillor, as the case may be; and with the exception of the chairperson, or any Councillor prevented by physical infirmity, shall stand when speaking.

### 3.19 Limitation as to number of speeches

- (1) A Councillor who, during a debate at a meeting of the Council, moves an original motion has the right of general reply to all observations that are made by another Councillor during the debate in relation to the motion and to any amendment to it, as well as the right to speak on any such amendment.
- (2) A Councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- (3) A Councillor must not, without the consent of the Council, speak more than once on a motion or an amendment, or for longer than 5 minutes at any one time. However, the chairperson may permit a Councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment and for longer than 5 minutes on that motion or amendment to enable the Councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- (4) Despite sub-clauses (1) and (2), if the mover of a motion or amendment has spoken in favour of it and no Councillor expresses an intention to speak against it or if at least 2 Councillors have spoken in favour of a motion or an amendment and at least 2 Councillors have spoken against the motion or amendment (whichever is to be put), any Councillor may move that the question be now put.
- (5) The chairperson must immediately put to the vote a motion under sub-clause (4) without the motion being seconded and without debate
- (6) If a motion that the question be now put is passed, the chairperson must, after the mover of the motion has exercised his or her right of reply under sub-clause (1), immediately put the question to the vote without further discussion.
- (7) If a motion that the question be now put is rejected, the chairperson must resume the debate on the original motion or amendment.

**Note:** *(cl 250 Regs)*

### 3.20 Motions put without debate

Provided there is no objection from any Councillor present, any motion or

recommendation before the Council may be put to the vote without discussion or debate.

### 3.21 Voting at Council meetings

- (1) Each Councillor is entitled to one vote. (S370)
- (2) Voting at a Council meeting, including voting at an election at such a meeting, is to be by open means (such as on the voices or by show of hands). However, the Council may resolve that the voting in an election by Councillors for mayor or deputy mayor is to be by secret ballot.
- (3) The Chairperson has, in the event of an equality of votes, a second or casting vote (S370) and that vote shall be used at the absolute discretion of the Chairperson.
- (4) A Councillor who is present at a meeting of the Council but who fails to vote on a motion or an amendment put to the meeting is taken to have voted against the motion (S251[1]).

**Note:** *A failure to vote counting against a motion includes where a Councillor abstains from voting, whether formally selecting "abstain" through Council's electronic system or by stating they abstain. (OLG Meeting Practice Note 16 [2009])*

- (5) If a Councillor who has voted against a motion put at a Council meeting so requests, the General Manager must ensure that the Councillor's dissenting vote is recorded in the Council's minutes.
- (6) The decision of the chairperson as to the result of a vote is final, unless:
  - a. in the case where a vote has been declared on the voices, a Councillor immediately requests a show of hands; or
  - b. the decision is immediately challenged and not fewer than 2 Councillors rise and demand a division.
- (7) When a division on a motion is demanded, the chairperson must ensure that the division takes place immediately. The General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes.

**Note:** *Any division will be recorded through the use of the electronic voting system installed in the Council Chambers. Should the electronic system be unavailable, the former custom of standing will be utilised.*

- (8) Where a tie in the voting occurs and the chairperson is entitled to a casting vote in accordance with Clause 3.21 (3) of this Code but declines to exercise such casting vote, the vote is lost and a new proposal should then be moved.
- (9) That Council when determining all planning, development, or related applications, Council will give relevant planning reasons for its decisions, if they depart from the recommendations of the staff, or from the Independent Hearing and Assessment Panel.
- (10) When Council is considering planning matters, that is all Development Application matters, and site specific Development Control Plans and Local Environmental Control Plans, the General Manager must ensure that the names of those who vote for the motion and those who vote against it are respectively recorded in the Council's minutes (see also Clause 3.21 (4) above).

**Note:** (cl 251 Regs)

### **3.22 Decisions of the Council**

A decision supported by a majority of the votes at a meeting of the Council at which a quorum is present is a decision of the Council. (S371)

### **3.23 Rescinding or altering resolutions (S372)**

- (1) A resolution passed by the Council may not be altered or rescinded except by a motion to that effect of which notice has been duly given in accordance with clause 3.24. A motion to rescind or alter a resolution of the Council shall not be considered at the same meeting at which the resolution was passed.
- (2) If it is proposed to move a further motion in the event that a rescission motion is carried, the required notice must also be given of the proposed further motion.
- (3) If a notice of motion to rescind or alter a resolution is given:
  - a. at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission or alteration has been dealt with; or
  - b. at any time after the meeting at which the resolution is carried, no further action to carry the resolution into effect may be taken after receipt of the notice of motion until the motion of rescission or alteration has been dealt with.
- (4) In the case of a motion of alteration, sub-clause (3) applies only to the extent that the resolution of Council would be affected by the motion of alteration, if it is carried.
- (5) If a motion has been negated by the Council, a motion having the same effect must not be considered unless notice of it has duly been given in accordance with clauses 8, 9 and 10.
- (6) A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been negated by the Council, must be signed by at least 3 Councillors if less than 3 months has elapsed since the resolution was passed, or the motion was negated, as the case may be.
- (7) If a motion to alter or rescind a resolution has been negated, or if a motion which has the same effect as a previously negated motion, is negated, no similar motion may be brought forward within 3 months. This sub-clause may not be evaded by substituting a motion differently worded, but in principle the same.
- (8) A motion to which this clause applies may be moved on the report of a committee of the Council and any such report must be recorded in the minutes.
- (9) The provisions of this clause concerning negated motions do not apply to motions of adjournment.
- (10) Notwithstanding the provisions of sub-clause (1), Council may, by resolution, provided that the majority of Councillors present agree, re-commit a matter for further consideration at the same meeting at which the matter has been resolved, to avoid the necessity to rescind the resolution. However re-committal will not be allowed if the meeting lapses for want of a quorum or is adjourned to another day.

**Note:** *The purpose of sub-clause (10) is to permit the Council to re-visit a decision taken, where it is realised after the vote on the matter that because there may have been confusion or misunderstandings during debate, the decision may be inconsistent with the wishes of a majority of Councillors.*

### **3.24 Rescission Motion Format**

The format of a Notice of Motion to rescind a Council resolution should be as provided in Schedule 3 to this Code. Three Councillors are required to sign a hard copy of the motion, or provide agreement to the motion electronically.

### **3.25 Motions of adjournment**

Debate shall not be permitted on any motion for adjournment of a meeting of the Council.

If a motion for adjournment is negatived, the business of the meeting shall proceed, and it shall not be in order for any Councillor to again move a motion for adjournment within half an hour of the previous motion for adjournment being negatived.

A motion for adjournment may specify the time, date and place of the adjourned meeting; however, if a motion for adjournment is carried but does not specify the time, date and place of the adjourned meeting, the chairperson shall make a determination with respect to whichever of these has not been specified, in accordance with the regulation (cl 233 Regs)

### **3.26 Time Limit on Council Meetings**

Council Meetings shall conclude by 10.45pm, however the Council may by majority decision extend the meeting to 11.00pm, at which time the business not completed may be dealt with at an adjourned meeting, as provided under clause 3.25 or at an extraordinary meeting of the Council.

## 4. KEEPING ORDER AT MEETINGS

### 4.1 Questions of order

The chairperson, without the intervention of any other Councillor, may call any Councillor to order whenever, in the opinion of the chairperson, it is necessary to do so.

A Councillor who claims that another Councillor has committed an act of disorder, or is out of order, may call the attention of the Chairperson to address the matter.

The chairperson must rule on a question of order immediately after it is raised but, before doing so, may invite the opinion of the Council.

The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

**Note:** (cl 255 Regs)

### 4.2 Acts of disorder

- (1) A Councillor commits an act of disorder if the Councillor, at a meeting of the Council or a committee of the Council:
  - (a) contravenes the Act, any regulation in force under the Act or this Code; or
  - (b) assaults or threatens to assault another Councillor or person present at the meeting; or
  - (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the Council or committee, or addresses or attempts to address the Council or committee on such a motion, amendment or matter; or
  - (d) insults or makes personal reflections on or imputes improper motives to any other Councillor; or member of Council's staff.
  - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the Council or committee into contempt;

**Note:** (cl 256 Regs)

- (f) reads at length from any correspondence, report or other document, without the leave of the Council.
- (g) Insults or engages in verbal abuse of a member of the public gallery.
- (2) The Chairperson may require a Councillor:
  - (a) to apologize without reservation for an act of disorder referred to in sub-clause (1) (a) or (b); or
  - (b) to withdraw a motion or an amendment referred to in sub-clause (1) (c) and, where appropriate, to apologize without reservation; or
  - (c) to retract and apologize for an act of disorder referred to in sub-clause (1) (d) or (e), or (g).
  - (d) to refrain from further reading and apologize for the act of disorder in sub-clause 1(f).
- (3) The Council or committee of the Council may, by resolution, expel from a meeting a Councillor who fails to comply with a requirement made under sub-clause (2). The expulsion of a Councillor under this sub-clause does not prevent any other action from being taken against the Councillor for the act of disorder concerned.

- (4) The provisions of the Code of Conduct adopted by Council or subsequent amendments made thereto that reflect on the Council's Code of Meeting Practice be endorsed.
- (5) Any matter of concern about the actions / behaviour of a Councillor are to be addressed as outlined in the Code of Conduct, if warranted, and not be the subject of debate or discussion at a Council Meeting.

#### **4.3 How disorder at a meeting may be dealt with**

- (1) If after the issuing of two warnings to a Councillor in respect of acts of disorder, that Councillor refuses to apologize, or if the Mayor the Chairperson of a standing committee or Councillor presiding at a Council or standing committee meeting, deems any apology given not to be given in good faith, or frivolously or in repetition of similar previous acts of disorder, the Mayor the Chairperson of a standing committee or the Councillor presiding at a Council or standing committee meeting, may expel that Councillor from the meeting
- (2) The expulsion of a Councillor from a meeting for reasons outlined in Clause 4.2 (1) does not prevent any other action from being taken against the Councillor for the act of disorder concerned.
- (3) If after the issuing of two warnings to a member of the public engaged in or having been engaged in disorderly conduct, the person continues with such behavior, the Mayor, the Chairperson of a standing committee or Councillor presiding at a Council or standing committee meeting may expel the member of the public from the meeting.
- (4) The power to expel a Councillor or a member of public for an act of disorder from a Council meeting or a standing committee meeting is delegated under this policy to the person who, for the time being and from time to time occupies the position of Mayor or Chairperson if the Chairperson is a Councillor, not the Mayor.

#### **4.4 Power to remove persons from meeting after expulsion resolution**

If a meeting of the Council or committee of the Council resolves to expel a Councillor from the meeting, for failing to comply with a requirement made under clause 4.3, or a member of the public for disorderly conduct and the Councillor or member of the public fails to leave the meeting immediately after the resolution is passed, a police officer or any person authorised by the Council or committee for the purpose, may by using only such force as is necessary, remove the person from the meeting and, if necessary, restrain the person from re-entering the place where the meeting is being held.

**Note:** (cl 258 Regs)

##### **4.4.1 Formal censure of councillor for misbehaviour**

- (1) A Council may by resolution at a meeting, formally censure a Councillor for misbehavior.
- (2) A formal censure resolution may not be passed except by a motion to that effect, of which notice has been duly given in accordance with regulations



made under section 360 of the Local Government Act and the Council's Code of Meeting Practice.

- (3) A Council may pass a formal censure resolution only if it satisfied that the Councillor has misbehaved on one or more occasions.
- (4) The Council must specify in the formal censure resolution, the grounds on which it is satisfied that the Councillor should be censured.
- (5) A motion for a formal censure resolution may, without limitation, be moved on the report of a committee of the Council and any such report must be recorded in the minutes of the meeting of the Council. In such case the provisions of clauses 4.4.2 (5) and 4.4.2 (6) apply.

#### **4.4.2 Formal censure of Councillor for breach of a Council Code or Policy**

- (1) If a Councillor proposes to move a motion that the Council censure a Councillor for a breach of a Council code or policy, or for actions taken by the Councillor, there must be compliance with the requirements of subclauses (2), (3) and (4) of clause 4.4.1.
- (2) A Councillor who proposes to move a motion to censure a Councillor must give to the General Manager written notice of the motion.
- (3) The General Manager must give to the Councillor or Councillors in respect of whom a notice of motion to censure has been given pursuant to subclause (2) a copy of that notice of motion not later than 24 hours after receiving same.
- (4) The Council must not consider any notice of motion to censure a Councillor unless there has been compliance with the provisions of clause 4.4.1 of this Code.
- (5) Prior to Council considering any notice of motion to censure, the affected Councillor may elect to have the matter dealt with at the next ordinary meeting of Council.
- (6) The affected Councillor may present any submission, orally or in writing, in opposition to the censure motion.

## 5. COUNCIL COMMITTEES

### 5.1 Committee of the Whole and Closed session

Note: see also CI 7.1

- (1) The Council may resolve itself into a Committee of the Whole to consider any matter before the Council.
- (2) All the provisions of this Code relating to meetings of the Council, so far as they are applicable, extend to and govern the proceedings of a Committee of the Whole, except the provisions:
  - a. limiting the number and duration of speeches; and (cl 259 [1] Regs)
  - b. requiring Councillors to stand when speaking.
- (3) If a Council resolves that a meeting, or a part of a meeting, is to be **closed to the public**, (See CI 7.1) the chairperson must make the recommendations of the closed session public, as soon as practicable after the meeting or part of the meeting has ended.
- (4) The General Manager is responsible for reporting to the Council, proceedings in a closed session. It is not necessary to report the proceedings in full, but any recommendations of the committee must be reported.
- (5) The Council must ensure that a report of the proceedings is recorded in the Council's minutes. However, the Council is not taken to have adopted the report until a motion for adoption has been made and passed.
- (6) Immediately after a Motion to close the meeting for a confidential session has been moved and seconded, but before that motion is put to the meeting, the Chairperson may invite any members of the public in attendance, to make representations as to whether a part of the meeting should **not** be closed to the public. If there are any representations indicated, sufficient time as is deemed necessary by the Chairperson, may be allowed for any representations to be made to the meeting. ( Section10A4; Gen Reg CI 264).

### 5.2 Council may appoint committees and determine frequency of meetings

The Council may appoint or elect such committees as it considers necessary.

The Council may determine the dates and times of meetings of committees appointed or elected by Council and additional meetings of committees appointed or elected by Council may be convened by Council, the Mayor or in his/her absence the Deputy Mayor or the Chairperson of the committee concerned, subject to appropriate notice of the meeting of the committee being given in accordance with Clause 5.4 of this Code.

**Note:** *Advisory Committees meet at various times, the schedules of which are published online.*

The Members of a particular committee may agree to vary the time of commencement of that committee from time to time.

Such a committee is to consist of such number of Councillors of the Council, as the Council decides.

The quorum for a meeting of such a Committee shall be as determined by resolution of the Council from time to time. If the Council has not determined a quorum, then the quorum will be a majority of the members of the committee and, in the event of a quorum not being present, all committees shall have the power to co-opt other Councillors so as to provide a quorum. The co-opted Councillor(s) shall be regarded for the purpose of that particular meeting, as having the same rights and privileges as if they were appointed or elected members of the committee. Where no members of a committee are available, the Mayor, or in his/her absence the Deputy Mayor, shall have the authority to co-opt other Members of Council so as to provide a quorum any members so co-opted shall have the same rights and privileges as other members.

### 5.3 Functions of committees

The Council must specify the functions of each of its committees when the committee is appointed or elected, but may from time to time amend those functions.

**Note:** (cl 261 Regs)

### 5.4 Notice of committee meetings to be given

The General Manager of the Council must send to each Councillor, at least 3 “clear” days before each meeting of the committee, a notice specifying:

- (a) the time and place at which and the date on which the meeting is to be held; and
- (b) the business proposed to be transacted at the meeting.

However, notice of less than 3 days, may be given of a committee meeting called in an emergency by the Mayor, or in his/her absence the Deputy Mayor, or the Chairperson of the committee, but in no case shall notice of less than one day be given.

The manner of giving notice of a committee meeting may be undertaken in the same manner as giving notice of a Council Meeting, as referred to in Clause 2.3 of this Code.

The provisions of clause 3.7 (2), (3) and (4) apply to the business papers of committee meetings, in the same manner as they apply to the business papers of meetings of the Council.

**Note:** (cl 262 Regs)

**Note:** *Notice under this section must be provided at least 3 “clear” days prior to the meeting, **not** including the date of notification or the date of the meeting. This is as provided in Cl 2.3 of Council’s Code of Meeting Practice and as defined in Cl 36(1) of The Interpretation Act 1987.*

### 5.5 Non-members entitled to attend committee meetings

- (1) A Councillor who is not a member of a committee of a Council is entitled to attend, and to speak at, a meeting of the committee.
- (2) However, the Councillor is not entitled:
  - (a) to give notice of business for inclusion in the agenda for the meeting, or
  - (b) to move or second a motion at the meeting, or

(c) to vote at the meeting.

**Note:** (cl 263 Regs)

## 5.6 Procedure in committees

(1) Each committee of the Council may regulate its own procedure.

Without limiting subclause (1), a committee of the Council may decide that, whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote.

Voting at a committee meeting is to be by open means (such as on the voices or by show of hands).

**Note:** (cl 265 Regs)

## 5.7 Chairperson and deputy chairperson of committees

The chairperson of each committee of the Council, must be:

- (a) the Mayor; or
- (b) if the Mayor does not wish to be the chairperson of a committee, a member of the committee elected by the Council; or
- (c) if the Council does not elect such a member, a member of the committee elected by the committee

A Council may elect a member of a committee of the Council as deputy chairperson of the committee. If the Council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.

If neither the chairperson nor the deputy chairperson of a committee of a Council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.

The chairperson is to preside at a meeting of a committee of a Council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

**Note:** Cl 267 Regs

**Note:** *The Mayor is, by virtue of holding that office, a member of each committee of the Council.*

## 5.8 Absence from committee meetings

- a. A member (other than the Mayor) ceases to be a member of a committee if the member:
  - has been absent from 3 consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences; or

- has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.

Subclause (1) does not apply in respect of a committee that consists of all of the members of the Council.

**Note:** *CI 268 Regs*

## **5.9 Reports of committees**

If in a report of a committee of the Council, distinct recommendations are made, the decision of the Council may be made separately on each recommendation.

The recommendations of a committee of the Council are, so far as adopted by the Council, resolutions of the Council.

**Note:** *CI 269 Regs*

## **5.10 Disorder in committee meetings**

The provisions of the Act, the Regulation and this Code relating to the maintenance of order in Council meetings, apply to meetings of committees of the Council in the same way as they apply to meetings of the Council.

**Note:** *CI 270 Regs*

## **5.11 Committee may expel certain persons from its meetings**

If a meeting or part of a meeting of a committee of the Council is closed to the public in accordance with clause 5.1, the committee may, by resolution, expel from the place where the meeting is being held, any person who is not a Councillor.

If any such person, after being notified of such a resolution, fails to leave the place where the meeting is being held, a police officer, or any person authorised by the Council for the purpose, may remove the person from and, if necessary, restrain the person from re-entering that place.

**Note:** *CI 271 Regs*

## 6. CONFLICT OF INTERESTS

### 6.1 Pecuniary interest

- (1) A conflict of interests can be of two types:
  - a. Pecuniary – An interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss, to the person or another person with whom the person is associated. (S442 and S443).
  - b. Non-Pecuniary – A private or personal interest the Council official has, that does not amount to a pecuniary interest as defined in the Act (for example; a friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).
- (2) A Councillor or a member of a Council Committee who has a pecuniary interest in any matter before the Council and who is present at a meeting where the matter is being considered, must identify the nature of the interest to the meeting as soon as practicable. Generally this would be when the Chairperson of the Meeting calls for “Disclosure of Interests“, at the start of the meeting.
- (3) A general notice of disclosure made pursuant to section 454 of the Act, fulfils the requirement of sub-clause (2).
- (4) When a Councillor or Council Official declares a Pecuniary Interest, he / she must vacate the room and not take part in any discussion or consideration of the matter. The Councillor or member must not be present at, or in sight of, the meeting of the Council or committee:
  - (a) at any time during which the matter is being considered or discussed by the Council or committee, or
  - (b) at any time during which the Council or committee is voting on any question in relation to the matter.
- (5) This clause does not prevent a person from taking part in the consideration or discussion of, or from voting on, any question as provided for in clause 6.3.
- (6) A person who, at the request or with the consent of the Council or a Council committee, gives advice on any matter at any meeting of the Council 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.
- (7) When a Councillor or Council Official declares a non-pecuniary interest he / she must determine the most appropriate course of action to deal with the conflict as specified in Council's Code of Conduct. If the Councillor does not leave the meeting, the Councillor must vote on the matter otherwise it will be taken as the Councillor having voted against the motion.
- (8) Subclauses (2) and (3) do 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:
1. the making of a principal environmental planning instrument applying to the whole or a significant part of the council's area, or
  2. the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the council's area, and
- (b) the councillor made a special disclosure under Schedule 3A (Regs) in relation to the interest before the commencement of the meeting. Schedule 3A is reproduced at the end of this Policy document.

- (9) A person does not breach this clause if the person did not know and could not reasonably be expected to have known that the matter under consideration at the meeting was a matter in which he or she had a pecuniary interest.
- (10) For the purposes of this Part, a pecuniary interest and the effects and requirements when a pecuniary interest arises is to be as defined in the relevant provisions of the Local Government Act, 1993.

**Note:** *Council's Conflict of Interest Policy should also be referred to for further information on pecuniary interests.*

## 6.2 Persons who have a pecuniary interest

- (1) For the purposes of this Part, a person has a pecuniary interest in a matter if the pecuniary interest is the interest of:
- (i) the person; or
  - (ii) another person with whom the person is associated as provided in this clause.
- (2) A person is taken to have a pecuniary interest in a matter if:
- the person's spouse or de facto partner or a relative of the person, or a partner or employer of the person, has a pecuniary interest in the matter; or
  - the person, or a nominee, partner or employer of the person, is a member of a company or other body that has a pecuniary interest in the matter.
- (3) However, a person is not taken to have a pecuniary interest in a matter as referred to in sub-clause (2):
- if the person is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative or company or other body; or
  - just because the person is a member of, or is employed by, a council or a statutory body; or
  - just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so

long as the person has no beneficial interest in any shares of the company or body.

### 6.3 Interests that need not be declared

The following interests do not need to be disclosed for the purposes of this Part:

- (1) an interest as an elector
- (2) an interest as a ratepayer or a person liable to pay a charge
- (3)
  - (i) 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 a section of the public that includes persons who are not subject to this Part
  - (ii) an interest in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to a relative of the person by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part
- (4) an interest as a member of a club or other organisation or association, unless the interest is as a holder of an office in the club or organisation (whether remunerated or not)
- (5) an interest of a member of a Council committee as a person chosen to represent the community or as a member of a non-profit organisation or other community or special interest group if the committee member has been appointed to represent the organisation or group on the committee
- (6) an interest in a proposal relating to the making, amending, altering or repeal of an environmental planning instrument other than an instrument that effects a change of the permissible use of:
  - (i) land in which the person or another person with whom the person is associated as provided in section 443 has a proprietary interest (which, for the purposes of this paragraph, includes any entitlement to the land at law or in equity and any other interest or potential interest in the land arising out of any mortgage, lease, trust, option or contract, or otherwise), or
  - (ii) land adjoining, adjacent to or in proximity to land referred to in subparagraph (i).
- (7) an interest relating to a contract, proposed contract or other matter if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company,
- (8) an interest of a person arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because a relative of the



person is a shareholder (but not a member of the committee) of the association or is a partner of the partnership,

- (9) an interest of a person arising from the making by the council of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
  - (i) the performance by the council at the expense of the relative of any work or service in connection with roads or sanitation,
  - (ii) security for damage to footpaths or roads,
  - (iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council or by or under any contract,
- (10) an interest relating to the payment of fees to Councillors (including the mayor and deputy mayor),
- (11) 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,
- (12) 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
- (13) an interest of a person arising from the passing for payment of a regular account for wages or salary of an employee who is a relative of the person,
- (14) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Councillor or member of a council committee,
- (15) an interest arising from appointment of a Councillor to a body as representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

#### **6.4 Participation in meetings despite pecuniary interests**

Clause 44 does not prevent a person from taking part in the consideration or discussion of or from voting on, any of the following questions:

- (1) a question relating to a contract, proposed contract or other matter if the person or the spouse, de facto partner or relative of the person has a pecuniary interest 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;
- (2) a question arising on a motion for a resolution to fill the office of

mayor, if the reason for which abstention from voting would otherwise be required is that a fee for the following 12 months had been determined for the office;

- (3) a question relating to the making of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the only reason for which abstention from voting would otherwise be required is that a relative of the person is a shareholder (but not a director) of the corporation or is a member (but not a member of the committee) of the association or is a partner of the partnership;
- (4) a question relating to the making of a contract or agreement with a relative of the person for or in relation to any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts, and agreements as have been made, or as are proposed to be made, by the Council in respect of similar matters with other residents of the area:
  - i. the performance by the Council at the expense of the relative of any work or service in connection with roads or sanitation
  - ii. an approval granted by the Council to enclose a public place in connection with the erection or demolition of a building
  - iii. security for damage to footpaths or roads
  - iv. any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council
- (5) a question relating to:
  - i. the making or levying of a rate or charge; or
  - ii. the fixing or charging of a fee for the supply to a relative of the person by the Council of any commodity or service provided by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this Part; or
  - iii. the payment of fees and expenses and the provision of facilities to Councillors (including the Mayor);
- (6) a question relating to the passing for payment of a regular account for wages or salary of an employee who is a relative of the person;
- (7) a question relating to the indemnity insurance of Councillors or members of Council committees.
- (8) a question relating to the appointment of a Councillor to a body as the representative or delegate of the council, even though a fee or other

recompense is payable to the representative or delegate.

**Note:** *Section 458 of the Act provides that the Minister may in certain circumstances allow a Councillor or a member of a committee of a council who has a pecuniary interest to be present at a meeting of Council or Committee and take part in the consideration or discussion of a matter or vote on a matter.*

#### **6.5 Disclosures to be recorded**

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

#### **6.6 Powers of the Council in relation to meetings**

A Councillor or member of a Council committee must not, if the Council or committee so resolves, attend a meeting of the Council or committee while it has under consideration a matter in which the Councillor or member has an interest required to be disclosed under this Part.

## 7. PRESS AND PUBLIC

### 7.1 Public notice of meetings

The Council must give notice to the press and public of the times, dates and places of its meetings and meetings of those of its committees of which all the members are Councillors.

The Council and each such committee must have the business paper available for the press and public prior to and at each meeting for inspection and taking away by persons of the business paper for the meeting. This requirement does not apply to a business paper for a matter that, in the opinion of the General Manager, is likely to be considered when the meeting is closed to the press and public and in this case the agenda for the meeting is to indicate that the relevant item of business is of such a nature (Act S9[2] and S9[2a]).

### 7.2 Public attendance at Council meetings and closure of meetings into confidential session

- (1) The press and public are entitled to attend a meeting of the Council and those of its committees of which all its members are Councillors, except as otherwise provided by this clause. The Council or such a committee may close to the press and public, only so much of its meeting, as comprises the receipt or discussion of any of the following:
  - (a) personnel matters concerning particular individuals (other than Councillors),
  - (b) the personal hardship of any resident or ratepayer,
  - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business,
  - (d) commercial information of a confidential nature that would, if disclosed:
    - i. prejudice the commercial position of the person who supplied it, or
    - ii. confer a commercial advantage on a competitor of the Council, or
    - iii. reveal a trade secret,
  - (e) information that would, if disclosed, prejudice the maintenance of law,
  - (f) matters affecting the security of the Council, Councillors, Council staff or Council property,
  - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
  - (h) Information concerning the nature and location of a place or an item of Aboriginal significance on community land,
  - (i) Alleged contraventions of any code of conduct requirements applicable under The Act, Section 440.
- (2) The grounds on which a meeting is closed to the press and public, must be specified in the decision to close the meeting and recorded in the minutes of the meeting.
- (3) A meeting is not to remain closed during the discussion of anything referred to in clauses 7.2 (1)(a–i):
  - (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and

- (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret, unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest. (LG Act S10B)
- (4) A meeting is not to be closed during the receipt and consideration of information or advice referred to in Cl 7.2 (1)(g) unless the advice concerns legal matters that:
- (a) are substantial issues relating to a matter in which the council or committee is involved, and
  - (b) are clearly identified in the advice, and
  - (c) are fully discussed in that advice.
- (5) If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in the Act section 10A (3)), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting (other than consideration of whether the matter concerned is a matter referred to in the Act section 10A (2)).
- (6) For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
- (a) a person may misinterpret or misunderstand the discussion, or
  - (b) the discussion of the matter may:
    - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
    - (ii) cause a loss of confidence in the council or committee.
- (7) In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must also have regard to any relevant guidelines issued by the Departmental Chief Executive.

A person (whether a Councillor or another person) is not entitled to be present at a meeting if expelled from the meeting by a resolution of the meeting.

Nothing in this clause prevents any limitation being placed on the number of members of the public admitted to a meeting of the Council or a committee of the Council, provided such limitation is for reason of safety or security.

**Note:** See also Cl 5.1 this policy and *Section 10(A) of the Local Government Act*

### **7.3 Public participation and addresses at Council and Committee meetings**

Public addresses are permitted subject to rules of conduct, so as to provide an opportunity for citizens to raise issues with Councillors, at a Council or Committee Meeting.

The following guidelines will apply:

Public addresses to the Council or a Committee meeting may be made on any matter included on the Agenda for the meeting, following registration by the speaker and subject to any constraints contained in this Policy.

Speakers wishing to speak on items not on the Agenda of the Council Meeting may do so with approval by the Mayor or Chairperson.

The Chairperson *may* not allow a person to speak, if that person has addressed a meeting of the Committee or the Council on the same topic, within the past three (3) months. A person may only address the Council or Committee more than once on the same subject, if it is for the purpose of introducing demonstrably new material. The priority of speakers will be determined in order of registration.

Requests to address a Council or Committee meeting are required to be made in writing, (*See Schedule 4*) via the online submission form or by email to the Executive Services Officer and must provide the name, address and phone number of the applicant and details of the topic or agenda item, to be the subject of the address.

Registration to speak at a Council or Committee meeting must be lodged on the appropriate form (*See Schedule 4*) by midday on the day of the meeting.

The application form may be distributed to Councillors, but will not be included in the minutes of the meeting. Only the topic or agenda item and speaker's name will be recorded in the minutes of the meeting. Any written information provided by the speaker will be placed on file.

For the purpose of running an orderly and efficient meeting and to allow appropriate time for speakers on other agenda items to address the Council, the Chairperson or Mayor at their discretion may limit the number of speakers on any issue to up to three (3) speakers "FOR" and three (3) speakers "AGAINST", for a time limit of three (3) minutes each, (with a warning bell at two (2) minutes) for each speaker. An extension of time may be granted in appropriate circumstances, at the discretion of the Mayor/Chairperson.

Persons may not address or present to Council on matters which have already been listed and considered by a Standing Committee of Council and have then been referred to Council for determination. Speakers wishing to address or present on items listed on the agenda of a Standing Committee should register to speak at the relevant Committee meeting.

An address or presentation to the Council or its Standing Committees are not permitted on development applications or planning proposals which have already, or may in future come before the Independent Hearing and Assessment Panel (IHAP) or Sydney South Planning Panel for determination. This does not restrict addresses or presentations on policy and strategic issues.

Persons making representations to the Council or a Committee will refrain from allegations specifically nominating individual Councillors, Council staff or other members of the community. Any presentation deemed by the Chairperson to be incompatible with these guidelines and Council's Code of Meeting Practice may be terminated by the Chairperson.

Speakers shall conduct themselves at all times, with due respect to the Council or Committee and all other persons present and shall observe the rules of conduct contained in the Code of Meeting Practice.

No motions or debates will be permitted during the public address occasion. Any matters arising or subsequent actions, may be raised by a Councillor during discussion of the relevant item on the Agenda of the Committee or Council meeting.

The use of visual aids for presentations (overheads, computer projections, etc) is permitted in conjunction with a public address to a meeting, subject to the approval of the Chairperson, the defined time constraints and prior arrangement with administrative staff.

No Councillor is permitted to address the Council as a member of the public during a public address occasion.

#### **7.4 Privacy and Personal Information Protection Notification**

In requesting to address a Council or Committee meeting, the applicant may be prompted to supply information that is personal information for the purposes of the Privacy and Personal Information Protection Act 1998. The supply of this information is voluntary. If the applicant cannot provide, or does not wish to provide the information sought, the Council may be unable to process the applicant's request.

Council is required under the Privacy and Personal Information Protection Act, to inform the applicant about how their personal information is being collected and used.

Please note that Council web casts and records the proceedings of its Council Meetings, including the public address, optimising access, transparency and the accuracy of minutes. The applicant's presentation will therefore be recorded and become a record of Council, which may be accessed by any person under the provisions of the Government Information, Public Access Act (GIPAA).

If further information is required, please contact the Executive Services Officer via Council's Customer Service Centre on 9330 6400.

Council may from time to time adopt Guidelines for Community Presentations to the Council.

**Note:** *Georges River Council actively encourages participation of residents in the decision making process and is happy to hear from people regarding matters raised in the Business paper, subject to the guidelines for public addresses to Council and the provisions of clause 3.17 in respect of Questions With Notice.*

#### **7.5 Public access to correspondence and reports**

The Council and any committee of which all the members are Councillors must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to the meeting.

This clause does not apply if the correspondence or reports:

- a. relate to a matter that was received or discussed; or
- b. were laid on the table at, or submitted to the meeting, while the meeting was closed to the public.

## 8. MISCELLANEOUS

### 8.1 Information relating to proceedings at closed meetings not to be disclosed

If a meeting or part of a meeting of the Council or a committee of the Council is closed to the public in accordance with clause 7.2, a person must not, without the authority of the Council or the committee, disclose, otherwise than to the Council or to a Councillor, information with respect to the discussion at, or the business of, the meeting.

**Note:** *Local Government Act S664*

### 8.2 Inspection of the minutes of the Council or a committee

Copies of the minutes of the Council or committees of the Council are made available to the public on-line.

Should an inspection of hard copy minutes of the Council or a committee of the Council be requested, the inspections is to be carried out under the supervision of the General Manager or Public Officer or an employee of the Council designated by the General Manager or Public Officer to supervise inspections of those minutes.

The General Manager must ensure that the minutes of the Council and any minutes of a committee of the Council are kept secure and in safe custody and that no unauthorised person is allowed to interfere with them.

### 8.3 Recording of meeting of the Council or a committee prohibited

A person may use a recording device to record the proceedings of a meeting of a council or committee of the council **only with the authority of the council or committee.**

A person may, as provided by section 10 (2) (a) or (b) of the Act, be expelled from a meeting of the Council or a Committee of the Council for using or having used a recording device in contravention of this clause.

If any such person, after being notified of a resolution or direction expelling him or her from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the Council, or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place.

In this clause, recording device includes a video camera, mobile phone and any electronic device capable of recording speech.

**Note:** *CI 273 Regs*

### 8.4 Recording of meeting by the Council or a committee

Council web casts council meetings held at the Civic centre, for the benefit of the community who cannot attend meetings. Audio recordings are made of Council and Committee Meetings. Where recordings of meetings are made, then:

- a. audio recordings of meetings will be used for verifying the accuracy of minutes;



- b. audio recordings of meetings will not be made available to the public or disclosed to any third party, except as allowed or exempted under sections 18, 19 and/or 23 of the Privacy and Personal Information Act 1998 or by any other law, e.g. Government Information (Public Access) Act 2009.
- c. audio recordings of meetings may be destroyed as soon as their original purpose is served or immediately after three months since their creation (whichever is the later), except where retention for a longer period is otherwise required or recommended under the State Records Act 1998 or for any other lawful purpose.
- d. appropriate signage will be displayed in the public gallery or at the public entrance to council meetings, as well as verbal statements at the commencement of each meeting, to notify the public of the matters required under s10(a)-(e) of the Privacy and Personal Information Act 1998.

In this clause, **audio recordings may** include recordings via video camera, mobile phone and any electronic device capable of recording speech.

### **8.5 Certain circumstances do not invalidate Council decisions**

Proceedings at a meeting of the Council or a Council committee are not invalidated because of:

- (1) a vacancy in a civic office;
- (2) a failure to give notice of the meeting to any Councillor or a committee member;
- (3) any defect in the election or appointment of a Councillor or a committee member;
- (4) a failure of a Councillor or a committee member to disclose a pecuniary interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a Council or a committee meeting in accordance with section 451;
- (5) a failure to comply with the Code of Meeting Practice.

**Note:** *Local Government Act S 374*

### **8.6 Amendment of Code**

Changes to the Act or Regulation will automatically impact Council's Code of Meeting Practice. If inconsistent, the provisions of the Meeting Code must be changed to match the Act and the Regulation.

The Code is automatically amended as a result of changes to the Act or Regulation. These changes do not require public notification under S361 to S363 of the Act, given that these amendments would follow best practice requirements.

Any amendment to the additional provisions provided by the Council in its Meeting Code may require public notification in accordance with the relevant sections of the Act.

The Code of Meeting Practice shall be reviewed within twelve (12) months of a general election, or on an "as needs" basis.

## **SCHEDULE 1 - General order of business**

- (1) National Anthem.
- (2) Acknowledgement of Country.
- (3) Apologies.
- (4) Disclosures of interests.
- (5) Public addresses to the meeting.
- (6) Confirmation of minutes of previous meetings.
- (7) Mayoral Minutes.
- (8) Matters of Privilege
  - i) Condolences
  - ii) ther
- (9) Reports from Committees.
- (10) Reports from officers.
- (11) Notices of Motion.
- (12) Questions with Notice.
- (13) Consideration of business in closed (confidential) session.
- (14) Closed (confidential) session.
- (15) Consideration of closed (confidential) Council recommendations.

## **SCHEDULE 2 - Order of Business at Extraordinary Meetings of the Council**

- (1) Apologies
- (2) Disclosure of interests
- (3) Mayoral Minutes
- (4) Business for the purpose for which the meeting was called
- (5) Other business as determined to be urgent by the General Manager

# SCHEDULE 3 - Notice of Rescission Motion / Notice of Alternative Motion

(See Clause 3.23 of this Code)

I / We the undersigned give notice that at the Ordinary/Extraordinary meeting of the Council to be held on ..... / ..... / ..... , the following rescission motion will be moved:

**Rescission Motion:**

“That Minute No. .... Or the decision in respect of Item No..... of the Ordinary / Extraordinary Meeting of the Council held on ..... / ..... / ..... be rescinded.”

**The resolution now proposed to be rescinded, reads as follows:**

.....  
.....  
.....  
.....

**SIGNED BY:** (minimum of three Councillors if rescinded item is less than 3 months old)  
(Local Govt. Act S.372)

- 1) Signed ..... Name ..... Date ..... / ..... /.....
- 2) Signed ..... Name ..... Date ..... / ..... /.....
- 3) Signed ..... Name ..... Date ..... / ..... /.....

**NOTICE OF any ALTERNATIVE MOTION:**

If this Rescission Motion is **Carried**, it is intended to **move** the following:

That .....  
.....  
.....  
.....  
.....  
.....

## SCHEDULE 3A - Form of Special Disclosure of Pecuniary Interest

(Section 451 of the Local Government Act 1993)  
(L G General Regulation Clause 195A)

- i. The particulars of this form are to be written in block letters, or typed.
- ii. If any space is insufficient in this form for all the particulars required to complete it, an appendix is to be attached for that purpose, which is properly identified and **signed** by you.

### Important Information

This information is being collected for the purpose of making a special disclosure of pecuniary interests, under sections 451 (4) and (5) of the *Local Government Act 1993*.

The special disclosure must relate to a pecuniary interest that 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 section 443 of the Act) in that person's principal place of residence.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints made about contraventions of these requirements may be referred by the Director-General, to the Civil and Administrative Tribunal.

**This form must be completed by you before the commencement of the council or council committee meeting, in respect of which the special disclosure is being made.** The completed form must be tabled at the meeting. Everyone is entitled to inspect it. **A copy of this Special Disclosure must be recorded in the minutes of the meeting.**

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

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

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

to be held on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

**Pecuniary Interest**

|   |   |
|---|---|
| Address of land in which councillor or an associated person, company or body has a proprietary interest ( <i>the identified land</i> ) <sup>1</sup> |   |
| Relationship of identified land to councillor<br>[Tick or cross one box.]   | <input type="checkbox"/> Councillor has interest in the land (eg. Is owner or has other interest arising out of a mortgage, lease, trust, option or contract, or otherwise).<br><br><input type="checkbox"/> Associated person of councillor has interest in the land.<br><br><input type="checkbox"/> Associated company or body of councillor has interest in the land. |

**Matter giving rise to pecuniary interest**<sup>2</sup>

|   |  |
|---|--|
| Nature of land that is subject to a change in zone/planning control by proposed LEP ( <i>the subject land</i> ) <sup>3</sup><br>[Tick or cross one box]         | <input type="checkbox"/> The identified land.<br><br><input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land. |
| Current zone/planning control<br>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]          |  |
| Proposed change of zone/planning control<br>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]    |  |
| Effect of proposed change of zone/planning control on councillor<br>[Insert one of the following: “Appreciable financial gain” or “Appreciable financial loss”] |  |

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

**Councillor’s signature:**.....**Date:** ...../...../.....

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

- (1) Section 443 (1) of the *Local Government Act 1993* provides that you may have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative<sup>4</sup> or because your business partner or employer has a pecuniary interest. You may also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.
- (2) Section 442 of the *Local Government Act 1993* 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 section 448 of that Act (for example, an interest as an elector or as a ratepayer or person liable to pay a charge).
- (3) 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 section 443 (1) (b) or (c) of the *Local Government Act 1993* has a proprietary interest – see section 448 (g) (ii) of the *Local Government Act 1993*.
- (4) ***Relative*** is defined by the *Local Government Act 1993* as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

***NB : The Local Government General Reg. Cl 195A commands as follows:***

*195A Special disclosure of pecuniary interests in meetings*

- (1) *A special disclosure of the pecuniary interest under section 451 of the Act must be in the form set out in Schedule 3A and must contain the information required by that form.*
- (2) *If a special disclosure of a pecuniary interest is made at a meeting of a council or council committee, a copy of the special disclosure is to be recorded in the minutes of the meeting.*

## SCHEDULE 4 - Registration to Address the Georges River Council at a Council or Committee meeting

### (Public Address Presentation - Application Form)

*Registrations must be made in writing, or by fax or email to the Executive Services Officer and must provide name, address and phone number of the applicant, plus details of the topic or relevant agenda item, in accordance with Cl 7.3 of this policy.*

|   |      |
|---|------|
| Name  |      |
| Address   |      |
|   |      |
|   |      |
| Contact Phone Number(s)   |      |
| Organisation – if applicable  |      |
| Council <b>OR</b> Committee meeting which you wish to address:  |      |
|   |      |
|   |      |
| <b>Topic</b> or Agenda item on which you wish to speak  |      |
|   |      |
|   |      |
| <p>I have read the conditions and guidelines relating to addressing the Council meeting as contained in Council's Code of Meeting Practice and I understand that if I do not comply with these conditions, the Chairperson may terminate my address. In addition, I will provide any supporting documentation for my address to Council staff, prior to the relevant meeting (if applicable).</p> |      |
| Signed  | Date |
| <b><i>For Office Use Only</i></b>   |      |
| Approved by Chairperson   |      |
| Further Advice:   |      |
| Meeting Date:   |      |

***NB: A person who addresses a Committee meeting may not address a following Council meeting on the same item.***

This application form (with attached information) should be completed and forwarded to: [mail@georgesriver.nsw.gov.au](mailto:mail@georgesriver.nsw.gov.au) and marked "For the attention of the Executive Services Officer". (Phone: 9330 6400)



## RESPONSIBILITIES

| <b>Position</b>   | <b>Responsibility</b>                      |
|---|--|
| <i>General Manager's Office</i>                         | Managing the application of the Policy     |
| <i>Head of Executive Services</i>                       | Primary responsibility for policy delivery |
| <i>Executive Manager, Office of the General Manager</i> | Policy approval                            |
| <i>Executive Services Officer</i>                       | Administration                             |

## VERSION CONTROL AND CHANGE HISTORY

| <b>Version</b> | <b>Amendment Details</b>  | <b>Policy Owner</b>                                    | <b>Period Active</b>    |
|----------------|---|--|-------------------------|
| 1.0            | Original as adopted by the former Hurstville Council on 15 September 2015 and prescribed for use upon proclamation of Georges River Council | Governance Manager                                     | 19/05/2016 – 06/08/2017 |
| 2.0            | New Georges River Council Code of Meeting Practice  | Executive Manager Office of the General Manager Office | 07/08/2017              |



# COUNCILLOR AND STAFF INTERACTION POLICY

*September 2017*

## POLICY ADMINISTRATION

|                                     |   |
|-------------------------------------|---|
| <b>Dates</b>                        | Policy approved 04/09/2017<br>This policy is effective upon its approval.<br>Policy is due for review September 2019  |
| <b>Approved by</b>                  | Council Meeting 04/09/2017<br>Council Resolution CCL196-17  |
| <b>Exhibition Period</b>            | N/A   |
| <b>Policy Owner</b>                 | Executive Manager, Office of the General Manager  |
| <b>Related Documents</b>            | Georges River Council Code of Conduct<br>Georges River Council Code of Meeting Practice<br>Georges River Council Terms of Reference for Committees<br>Georges River Council Enforcement Policy  |
| <b>References &amp; Legislation</b> | Local Government Act 1993<br>Local Government (General) Regulation 2005<br>Public Interest Disclosures Act 1994<br>Independent Commission Against Corruption Act 1988   |
| <b>Document Identifier</b>          | Policy #: Pol-030.01<br>Doc #: D17/138096   |
| <b>Breaches of Policy</b>           | Breaches of any policy will be dealt with and responded to in accordance with adopted codes and/or relevant legislation.  |
| <b>Record Keeping</b>               | All documents and information obtained in relation to the implementation of this policy will be kept in accordance with the NSW State Records Act 1998, Georges River Council's Corporate Records Policy and adopted internal procedures. |

## PURPOSE

Georges River Council supports Councillors' requirement to access Council information and staff in order to exercise their civic duties under the Local Government Act, 1993 (The Act). Interactions between Councillors and staff are necessary to facilitate strong governance, best practice policies and decisions and to provide customer-focused service delivery.

The Georges River Council Councillor and Staff Interaction Policy provides a structure for how Councillors interact with authorised staff and supports the professional working relationship with the Executive Team.

The Georges River Council Councillor and Staff Interaction Policy aims to facilitate a progressive and productive working relationship between Councillors and Council staff.

## SCOPE

This policy applies to Councillors and Council employees, including contract and casual employees engaged by Council. This Policy is an enforceable component of the Georges River Council Code of Conduct

## DEFINITION OF TERMS

| Term                    | Meaning  |
|-------------------------|--|
| <i>Authorised Staff</i> | Staff nominated by the General Manager who can interact with or provide advice to Councillors. |

## POLICY STATEMENT

### 1. General Principles

Effective governance and customer-focused service delivery require a productive and professional working relationship between the elected members and the organisation. Effective governance also requires clear and effective communication protocols for Councillors and senior staff which provide for courteous and respectful communication.

The Local Government Act defines the roles and responsibilities of the Mayor and Councillors, and specifies that the General Manager is to direct staff in the performance of their duties. Interactions between Councillors and staff are necessary to facilitate well-informed decisions and the provision of Council services.

In accordance with Council's Code of Conduct, Councillors and staff are expected to conduct their interactions with each other with respect, professionalism, objectivity, honesty and to a high standard of ethical behaviour. This Policy supplements the Code of Conduct and nominates those Council staff (Sections 3-6) that Councillors may access to exercise their civic leadership and represent the views of the community. This Policy should be read

and applied in conjunction with Council's Code of Meeting Practice, which supports the effective running of Council Meetings.

While this Policy, and the Code of Conduct, governs the interactions between Councillors and staff, it does not prevent Councillors and staff from communicating generally. From time to time, Councillors and staff may be present at social and community events. In such situations, both parties should refrain from discussing matters relating to council business.

### **1.1. Access to staff by Members of Parliament**

Please note that only members of the Executive Team are authorised to advise and interact with State and Federal Members of Parliament, as outlined in Section 6 below.

### **1.2. Access to staff other than the General Manager by Councillors**

All access to staff by Councillors, other than the General Manager, is to be authorised by the General Manager.

Only those staff authorised by the General Manager (Section 3) can provide advice to Councillors within the limits of their delegated responsibilities. Only those staff authorised by the General Manager may be contacted for a Public Interest Disclosure (Section 4), in accordance with Section 4A of the Public Interest Disclosures Act 1994 or a Code of Conduct matter (Section 5), in accordance with Section 440 of the Local Government Act.

The General Manager may amend these lists of nominated officers from time to time to reflect changes to positions. Further, the General Manager may nominate officers to interact with Councillors on a specific issue and temporary basis, as required.

Should a Council officer be acting in any of the nominated positions included in this schedule, the person so acting will be a nominated officer unless otherwise determined by the General Manager.

### **1.3. Councillor and Council staff interaction**

Councillors should be aware that under Section 6.2 of the Georges River Council Code of Conduct, Councillors must not attempt to direct Council staff in the performance of their duties or request that staff undertake work on their behalf.

A Councillor or member of Council staff should not take advantage of their official position to improperly influence other Councillors or members of Council staff in the performance of their civic or professional duties for the purpose of securing private benefit for themselves or for another person.

In circumstances where staff are unsure whether or not they should provide information to, or respond to a request from a Councillor, they should refer the matter to their Director or the General Manager, or request that the Councillor make the request through the General Manager.

#### **1.4. Councillor and Council staff interaction in Meetings**

To ensure the effective running of Council Meetings, Standing Committees, Advisory Committees and other meetings and events of Council, Councillors and Council staff should abide by the Georges River Council Code of Conduct and Code of Meeting Practice.

Within the context of Council Meetings and in accordance with the Local Government (General) Regulation 2005, Section 249 (1)(b), a Councillor may, through the General Manager, put a question to a council staff member. Further, “a Councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents.” (Section 249 (2) of the Local Government (General) Regulation 2005).

At Standing Committee and Advisory Committee meetings Councillors may approach designated support staff, as referenced in the relevant Terms of Reference, for advice in relation to activities of that committee.

#### **1.5. Councillors Portal**

The online Councillors Portal provides Councillors with 24/7 access to relevant Georges River Council resources. Councillors are encourage to utilise this Portal as the first point of reference in fulfilling their civic duties.

Resources available on the Portal include:

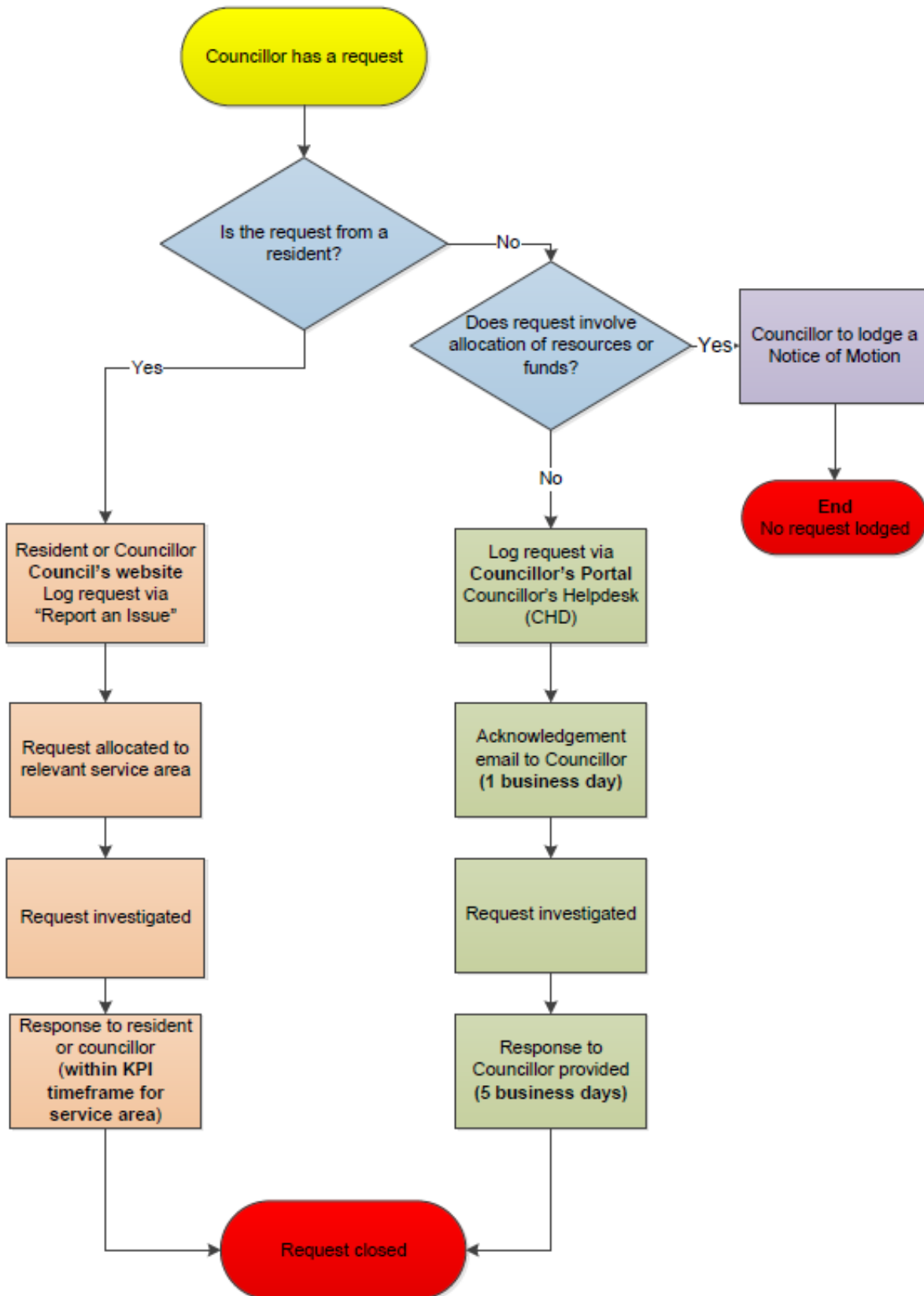
- Policies and Codes
- Councillor’s HelpDesk
- Calendar of Events
- Councillor Information Bulletin

#### **1.6. Councillor’s HelpDesk**

Service requests on behalf of residents should be submitted as a service request from Council’s website by clicking on the “Report an Issue” quick link on [www.georgesriver.nsw.gov.au](http://www.georgesriver.nsw.gov.au). Such requests might include queries and complaints received from residents.

To ensure the timely and accurate completion of requests, Councillors are asked to make all other Councillor requests through the Councillor’s HelpDesk (CHD). The CHD is accessible through the Councillor Portal. Such requests might include requests for information and/or actions, or requests for updates on Council’s operations. Requests made via other channels such as telephone, email or SMS will be forwarded to the CHD. In the event that HelpDesk requests are made directly to Officers in Council, staff are directed to refer Councillor’s to the Councillor HelpDesk to submit their request or transfer the Councillor to the Executive Services team to assist the Councillor with submission of the HelpDesk request.

These channels are outlined in the flowchart below.



### Service and Councillor HelpDesk Workflow

The CHD allows Councillors to:

- Make requests for information and/or actions
- Seek updates on Council's operations

All CHD requests will be acknowledged via email with an initial response to the Councillor within five (5) business days.

Councillors are surveyed annually to measure satisfaction with regard to the CHD, to ensure continuous improvement.

Where a Councillor's request requires the allocation of resources or expenditure of funds, the Councillor may be requested to consider a Notice of Motion.

If a Councillor would like staff to contact and update a resident directly, they should indicate this in their request. When sending a service request to the CHD, Councillors should include sufficient information to enable staff to respond, for example, the name and contact details of a resident, if staff are required to contact them.

Responses to Councillors following CHD requests are for the information of Councillors only and should not be forwarded to other parties.

### 1.7. Service standards

| Action   | Standard  |
|--|---|
| Councillor HelpDesk request - acknowledgement                                | 1 business day  |
| Councillor HelpDesk request - response                                       | 5 business days   |
| Councillor requests made through channels other than the Councillor HelpDesk | No service standard applies   |
| Phone calls to Directors and authorised staff – during business hours        | Calls returned on the same day  |
| Phone calls to Directors and authorised staff – outside business hours       | Where possible calls are returned on the same day. Alternatively, messages left will be replied to on the next business day |

### 1.8. Councillor access to Council Civic Centre offices

Councillor access to the Georges River Council Civic Centre offices includes:

- Councillor offices
- Councillor's Suite



- Council Chambers
- Office of the Executive Assistant to the Mayor (during office hours)
- Mayor's office (with the consent of the Mayor)
- Public areas

## **2. Councillor Information Bulletin**

A Councillor Information Bulletin will be published regularly via e-mail and on the Councillor Portal. This Bulletin will include:

- Civic Events calendar
- Determined Development Applications
- Project updates
- Quarterly reporting on HelpDesk statistics

The Bulletin is a confidential publication for the information of Councillors only and must not be disseminated to other parties.

## **3. Nominated staff authorised to interact with Councillors**

### **3.1. Office of the General Manager**

- General Manager
- General Counsel
- Executive Manager, Office of the General Manager
- Executive Manager, Premium Facilities and Properties
- Head of Executive Services
- Executive Assistant to the Mayor
- Executive Assistant to the General Manager
- Executive Assistant to General Counsel
- Personal Assistant to the Executive Manager, Office of the General Manager

### **3.2. Assets and Infrastructure**

- Director Assets and Infrastructure
- Executive Manager Engineering Operations
- Manager Infrastructure
- Manager Project Delivery
- Executive Assistant to the Director Assets and Infrastructure
- Personal Assistant to the Executive Manager Engineering Operations

### **3.3. Community and Culture**

- Director Community and Culture
- Manager Communications and Customer Service
- Manager Community and Cultural Development

- Executive Assistant to the Director Community and Culture

### **3.4. Environment and Planning**

- Director Environment and Planning
- Manager Strategic Planning
- Manager Development and Building
- Manager Environment, Health and Regulatory Services
- Executive Assistant to the Director Environment and Planning

### **3.5. Office of the Chief Operating Officer**

- Chief Operating Officer
- Manager Governance and Risk Management
- Executive Assistant to the Chief Operating Officer

### **3.6. Transformation and Change**

- Director Transformation and Change

## **4. Nominated staff authorised to interact with Councillors in relation to Public Interest Disclosures (PIDs)**

Only those staff authorised by the General Manager, as listed below, may be contacted for a Public Interest Disclosure in accordance with Section 4A of the Public Interest Disclosures Act 1994:

- General Manager
- Manager Governance and Risk Management as the designated Complaints Coordinator
- Internal Auditor as the designated Public Officer
- Executive Manager Engineering Operations

## **5. Nominated staff authorised to interact with Councillors in relation to Code of Conduct reviews**

Only those staff authorised by the General Manager, as listed below, may be contacted in relation to a Code of Conduct matter in accordance with Section 440 of the Local Government Act 1993:

- General Manager
- Manager Governance and Risk Management as the designated Complaints Coordinator

## 6. Nominated staff authorised to interact with State and Federal Members of Parliament

Only members of the Executive Team are authorised by the General Manager to advise and interact with State and Federal Members of Parliament. The Executive Team includes:

- General Manager
- General Counsel
- Director Assets and Infrastructure
- Director Community and Culture
- Director Environment and Planning
- Chief Operating Officer
- Director Transformation and Change
- Executive Manager, Office of the General Manager
- Executive Assistant to the General Manager
- Executive Assistant to the Mayor
- Personal Assistant to the Executive Manager, Office of the General Manager

## VERSION CONTROL AND CHANGE HISTORY

| Version | Amendment Details  | Policy Owner                                     | Period Active |
|---------|--|--|---------------|
| 1.0     | Complete new Georges River Council Councillor and Staff Interaction Policy | Executive Manager, Office of the General Manager | 04/09/2017    |



# COUNCILLOR HANDBOOK

---

OFFICE OF LOCAL GOVERNMENT

OCTOBER 2017

## **ACCESS TO SERVICES**

The Office of Local Government is located at:

Levels 1 & 2

5 O'Keefe Avenue  
NOWRA NSW 2541

Locked Bag 3015  
NOWRA NSW 2541

Phone: (02) 4428 4100

Fax: (02) 4428 4199

TTY: (02) 4428 4209

Email: [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

Website: [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)

## **OFFICE HOURS**

Monday to Friday

8.30am to 5.00pm

(Special arrangements may be made if these hours are unsuitable)

All offices are wheelchair accessible.

## **ALTERNATIVE MEDIA PUBLICATIONS**

Special arrangements can be made for our publications to be provided in large print or an alternative media format. If you need this service, please contact us on (02) 4428 4100.

## **DISCLAIMER**

While every effort has been made to ensure the accuracy of the information in this publication, the Office of Local Government expressly disclaims any liability to any person in respect of anything done or not done as a result of the contents of the publication or the data provided.

© Office of Local Government  
ISBN 978-1-922001-10-8

Produced by the Office of Local Government

[www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)

# Contents

|  |           |
|--|-----------|
| <b>FOREWORD</b>  | <b>2</b>  |
| <b>INTRODUCTION</b>  | <b>4</b>  |
| 5 key things every councillor needs to know                        | 5         |
| <b>SECTION 1 - AN OVERVIEW OF LOCAL GOVERNMENT IN NSW</b>          | <b>8</b>  |
| 1.1 Local government   | 8         |
| 1.2 Local government reform  | 9         |
| 1.3 The principles for local government                            | 10        |
| 1.4 A council's structure  | 11        |
| 1.5 Services and functions that councils provide                   | 12        |
| 1.6 How are councils funded?                                       | 14        |
| 1.7 Legal framework  | 14        |
| <b>SECTION 2 - ROLES, RESPONSIBILITIES AND RELATIONSHIPS</b>       | <b>16</b> |
| 2.1 Roles and responsibilities                                     | 16        |
| 2.2 Managing internal council relationships                        | 24        |
| 2.3 Managing external relationships                                | 27        |
| 2.4 Effective decision-making                                      | 31        |
| 2.5 Risk management  | 32        |
| 2.6 Other resources  | 33        |
| <b>SECTION 3 - CODE OF CONDUCT AND ACTING ETHICALLY</b>            | <b>34</b> |
| 3.1 The Code of Conduct  | 34        |
| 3.2 Councillors and public comment                                 | 41        |
| <b>SECTION 4 - MAKING THE MOST OF MEETINGS</b>                     | <b>43</b> |
| 4.1 How councils debate and make decisions                         | 43        |
| 4.2 How often council meetings are held and how they are conducted | 43        |
| 4.3 Different types of council meetings                            | 46        |
| 4.4 Other resources  | 48        |
| <b>SECTION 5 - SOUND PLANNING AND REPORTING</b>                    | <b>49</b> |
| 5.1 Community strategic planning                                   | 49        |
| 5.2 Land use planning  | 54        |
| 5.3 Natural Resource Management (NRM)                              | 58        |

|  |            |
|--|------------|
| <b>SECTION 6 – FINANCIAL MANAGEMENT</b>                                | <b>60</b>  |
| 6.1 Principles of sound financial management                           | 60         |
| 6.2 Sources of revenue   | 61         |
| 6.3 Financial planning   | 63         |
| 6.4 Allocation of revenue  | 64         |
| 6.5 Asset management   | 64         |
| 6.6 Capital expenditure  | 66         |
| 6.7 Financial reporting  | 67         |
| 6.8 Other financial management issues                                  | 68         |
| <b>SECTION 7 – SUPPORT FOR COUNCILLORS</b>                             | <b>70</b>  |
| 7.1 Annual fees paid to councillors                                    | 70         |
| 7.2 Expenses and facilities  | 71         |
| 7.3 Training and professional development                              | 72         |
| 7.4 Other information and resources                                    | 73         |
| <b>APPENDICES</b>  | <b>74</b>  |
| <b>APPENDIX 1 – SKILLS AND KNOWLEDGE CHECKLIST</b>                     | <b>76</b>  |
| Councillor Skills  | 76         |
| Councillor knowledge   | 77         |
| <b>APPENDIX 2 – KEY ORGANISATIONS</b>                                  | <b>79</b>  |
| Other Key Bodies   | 82         |
| <b>APPENDIX 3 – KEY LEGISLATION</b>                                    | <b>85</b>  |
| 1.1 Key Legislation  | 85         |
| 1.2 Other key legislation under which councils have responsibilities   | 86         |
| 1.3 Legislation under which councillors have personal responsibilities | 89         |
| 1.4 Further information about NSW legislation                          | 91         |
| <b>APPENDIX 4 – USEFUL RESOURCES</b>                                   | <b>92</b>  |
| 1.1 Roles, responsibilities and relationships                          | 92         |
| 1.2 Code of Conduct and acting ethically                               | 93         |
| 1.3 Making the most of meetings  | 94         |
| 1.4 Financial Management – Integrated Planning and Reporting           | 94         |
| 1.5 Support for councillors  | 94         |
| <b>APPENDIX 5 – DEALING WITH THE MEDIA</b>                             | <b>96</b>  |
| <b>APPENDIX 6 – TIPS FOR EFFECTIVE COMMUNITY ENGAGEMENT</b>            | <b>98</b>  |
| <b>APPENDIX 7 – STANDARDS OF CONDUCT FOR COUNCIL OFFICIALS</b>         | <b>100</b> |

# FOREWORD

## FROM THE MINISTER FOR LOCAL GOVERNMENT



### **Congratulations on your success at the recent local government elections.**

Local government plays a critical part in the delivery of the most vital services for communities.

Residents have put their faith in you to represent their needs at the local level and I know this is a responsibility you will not take lightly.

Being a councillor is a privilege and a wonderful opportunity to make a difference to your community. Although challenging at times, your service will have a profound impact on your local community.

As a councillor you are expected to represent the views of the community while making decisions in their interests, demonstrate conduct that the community expects and deserves, and plan and oversee the running of a significant and complex business.

In fulfilling your duties with the integrity expected of an elected official, this handbook is a vital resource. It outlines how councillors can meet the wide range of obligations.

It will play a strong part in ensuring that you are fully prepared for the role and give the community comfort that it has civic leaders well supported and skilled as they perform their duties.

This handbook will serve throughout your term as a reference guide. In conjunction with workshops run by the Office of Local Government, you will develop your skills as a councillor and be kept up to date on issues affecting your responsibilities, particularly during this important time of reform.

The NSW Government remains committed to improving the performance of councils across the State, ensuring that they are able to deliver the services and infrastructure that local communities need both now and into the future.

I wish you the best in your role as local leaders of your communities.

**The Hon Gabrielle Upton**

Minister for Local Government



# INTRODUCTION

Being a councillor is a significant privilege and challenge. New councillors will have a lot to learn as quickly as possible. Returning councillors need to be up to date with changes that impact the sector and to continue to develop their knowledge. This handbook will help new and returning councillors to be effective in the role.

The term of councils commencing in September 2016 will see significant changes to the way councils are governed through legislative and other reforms. Some of the changes that have already commenced include:

- » changes to the prescribed roles of mayors, councillors and general managers
- » a requirement for councillors to swear an oath or take an affirmation of office
- » an extension of the term of office for mayors elected by councillors from one to two years
- » external audit being overseen by the Auditor General

Some other important reforms that will be rolled out over this term include:

- » a requirement for councils to provide induction training and ongoing professional development
- » changes to the way in which ethical standards are prescribed and enforced
- » mandating an internal audit, risk and improvement committee
- » a new performance measurement framework for councils
- » changes to the way ethical standards are regulated
- » changes to the Integrated Planning and Reporting framework

All these changes are designed to improve the way councils exercise their functions and to assist them to meet the high standards of performance and internal governance that their communities are entitled to expect of them.

To help you hit the ground running, the following page contains a summary of the five things every councillor needs to know to achieve better outcomes for their community.

# 5 key things every councillor needs to know

How to achieve better outcomes for your community

## Leadership

Be an effective leader of your local community by:

- » setting the vision and direction for your community without getting involved in the day-to-day operations of your council
- » balancing your advocacy role with the need to work as a team with other councillors to make decisions that benefit the whole community
- » balancing short and long term community needs and interests
- » fostering and maintaining positive internal and external relationships

## Open decision-making

Ensure effective participation in council business by:

- » making informed decisions through good preparation and involvement
- » following your council's Code of Meeting Practice and/or legislation on meetings
- » drawing on the information and assistance that the general manager can provide to councillors in making their decisions

## Conduct

Conduct yourself in a way that enhances and maintains the credibility of your council and local government as a whole by:

- » acting lawfully, honestly, transparently and respectfully in line with your council's Code of Conduct
- » exercising care and diligence in carrying out your functions
- » ensuring your relationships with the general manager and staff are based on trust and mutual respect, following clear and agreed protocols about staff contact

## Accountability

Be accountable for understanding and meeting your community's needs by:

- » engaging and consulting with your community
- » responsibly managing your council's money and assets to meet current and future needs
- » considering the long term consequences of your decisions
- » ensuring the requirements of the Integrated Planning and Reporting framework are met

## Learning

Take responsibility for your ongoing learning and professional development by:

- » regularly assessing your learning needs
- » actively seeking opportunities to acquire further knowledge and skills
- » contributing your knowledge and skills to the development of local government as a whole

## **Purpose of this handbook and how to use it**

While the '5 key things every councillor needs to know' summary is a helpful start, it's important that you have a comprehensive understanding of your role and responsibilities to be an effective councillor.

This handbook is the go-to resource for all councillors during their electoral term and includes links to other useful resources when more information is needed in relation to a particular issue.

It provides more detail on the issues covered in a series of workshops that will be held for new and returning councillors following the local government elections in September 2016.

This handbook is also available on the Office of Local Government's website electronically for ease of access.

If you still have queries after reading this handbook, there are a number of key organisations that may be able to assist.

We have provided a list of these organisations and their contact information in [Appendix 2 - Key organisations](#).

# Section 1

## AN OVERVIEW OF LOCAL GOVERNMENT IN NSW

### 1.1 Local government

Local government in NSW employs over 45,000 people and spends more than \$10.3 billion annually. The services it provides range from traditional town planning and waste management to community development, environmental protection, economic development and much more.

Councils can order people to do certain things, such as demolish a building or restrain a dog. They can also issue orders to ensure that public amenity is not compromised; for example, to prevent a noise nuisance, or the operation of an inappropriate business in a residential area. Increasingly, councils are playing a role in not just delivering services to their community but also shaping the future of the community by working with local people to develop and deliver a vision for each place.

Councillors play a vital role in meeting the needs of local communities. They serve their communities by listening to people in the local

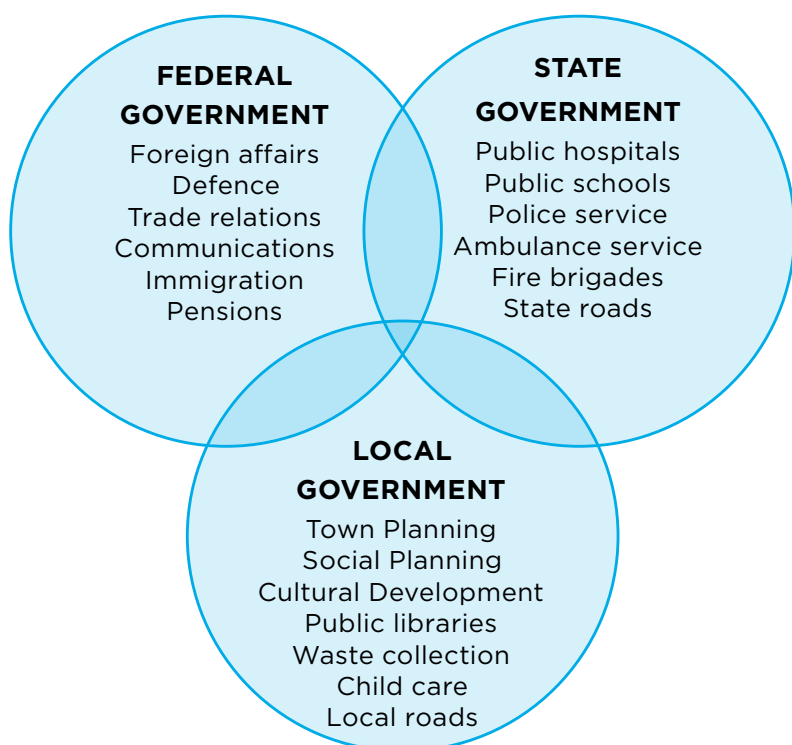
area and then representing those views on council. They make decisions that can change local communities and environments.

The communities that councillors represent are made up of a mix of people with different needs and interests from a diverse range of backgrounds. Effective councils are made up of councillors that reflect this mix.

Local government is often called ‘the third sphere’ of government in Australia. It is an elected system of government directly accountable to the local community.

Each council is an independent, statutory body responsible for administering its local government area.

‘The council’ comprises all the elected representatives, or councillors, who work together to govern their local community. The council provides leadership to its local community.



---

#### The three spheres of government and examples of their responsibilities

For further information about the specific services provided by councils, see [Services and functions that councils provide](#), on page 13.

## 1.2 Local government reform

The NSW Government has been working with local councils since 2011 to achieve the shared vision of strengthening local communities.

The NSW Government is committed to creating a stronger, modern system of local government that will deliver the high-quality infrastructure and services that communities across NSW deserve.

Significant progress has been made, with the creation of new councils, modernising the Local Government Act 1993 (the Act), working with councils to support regional collaboration and starting to address the unique issues facing the communities of the Far West of NSW.

The Government will build on these achievements as well as the consultation, research and independent reviews conducted since 2011.

The NSW Government's local government reforms include a number of integrated initiatives that are delivered through three key programs. These programs are:

### Program 1. Creating stronger councils

- » Create new councils
- » Facilitate regional collaboration
- » Support Far West councils and communities

### Program 2 – Improving council performance and governance

- » Deliver programs to improve council capability, with an initial priority on financial sustainability
- » Support rural councils to deliver the services their communities need
- » Provide new powers to intervene in financially unsustainable councils
- » Deliver tools to support improved leadership and governance

### Program 3 - Strengthening the system of local government

- » Create streamlined, modern legislation
- » Improve financial systems, including rating, access to TCorp and Financial Assistance Grants
- » Develop stronger accountability systems for councils, including Auditor-General oversight and performance improvement tools and frameworks

The broad range of initiatives recognise that there is no 'one-size-fits-all' approach to local government, with different solutions required to address the varied circumstances and needs of communities across the State.

The NSW Government is committed to working collaboratively with councils to strengthen local government over the coming years.

More information on local government reform is available by contacting the Office of Local Government.

## 1.3 The principles for local government

**All councillors should read and be familiar with the principles prescribed under the Local Government Act 1993 to guide the exercise by councils of their functions, decision making, community participation, sound financial management and integrated planning and reporting.**

The *Local Government Act 1993* has been amended to prescribe new principles for local government. The object of the principles is to guide councils to carry out their functions in a way that facilitates strong, healthy and prosperous local communities.

Under these principles, in exercising their functions, councils should:

- » provide strong and effective representation, leadership, planning and decision-making
- » carry out their functions in a way that provides the best possible value for residents and ratepayers
- » plan strategically, using the Integrated Planning and Reporting framework, for the provision of effective and efficient services and regulation to meet the diverse needs of the local community
- » apply the Integrated Planning and Reporting framework in carrying out their functions so as to achieve desired outcomes and continuous improvements
- » work co-operatively with other councils and the State Government to achieve desired outcomes for the local community
- » manage lands and other assets so that current and future local community needs can be met in an affordable way

- » work with others to secure appropriate services for local community needs
- » act fairly, ethically and without bias in the interests of the local community
- » be responsible employers and provide a consultative and supportive working environment for staff.

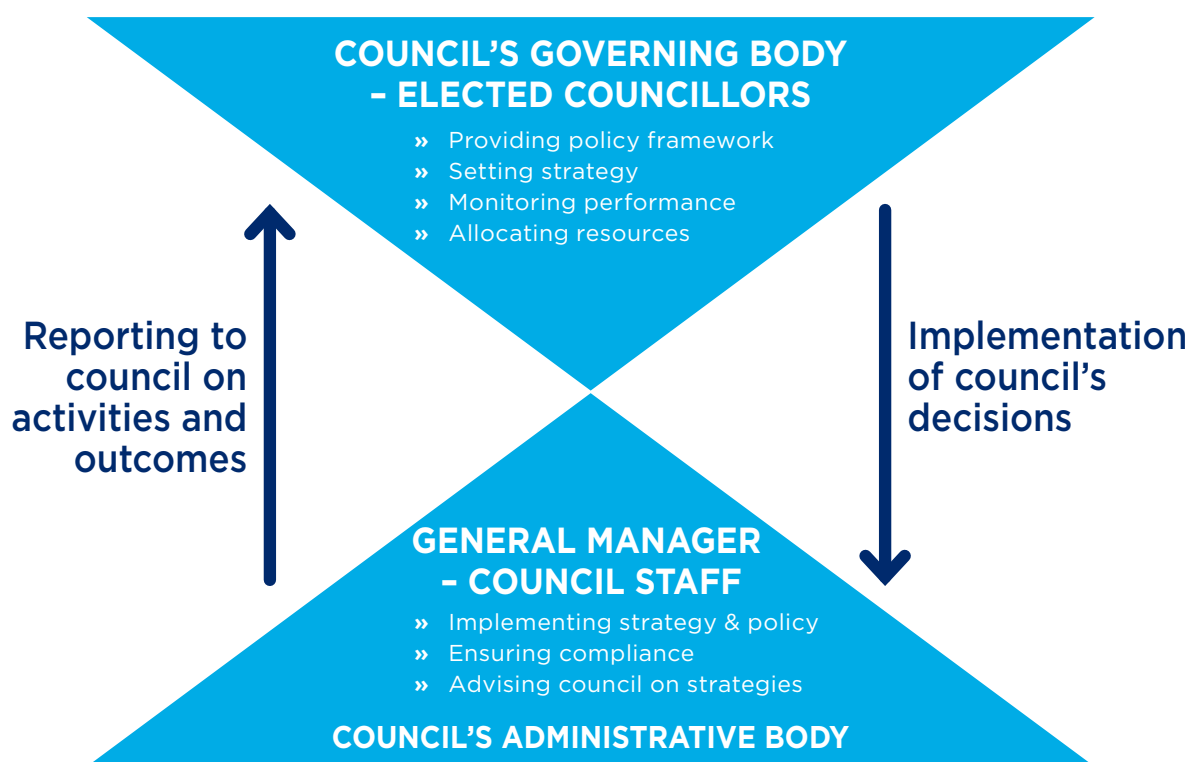
When making decisions, councils should:

- » recognise diverse local community needs and interests
- » consider social justice principles
- » consider the long term and cumulative effects of actions on future generations
- » consider the principles of ecologically sustainable development
- » ensure their decisions are transparent and that decision-makers are accountable for decisions and omissions.

Councils should also actively engage with their local communities through the use of the Integrated Planning and Reporting framework and other measures.

The Act also prescribes principles of sound financial management and integrated planning and reporting, which are discussed in more detail below.

## 1.4 A council's structure



### Key Relationships

Between five and 15 elected councillors hold office as 'the council' for four years. The elected council's role may be compared to that of the board of a public company or a more complex version of a board that oversees a local club; the elected council oversees the activities of the council but is not involved in the day-to-day running of the council. The 'shareholders' of a public company can be likened to a local community.

Many councils delegate functions to specialist committees that include councillors, council staff

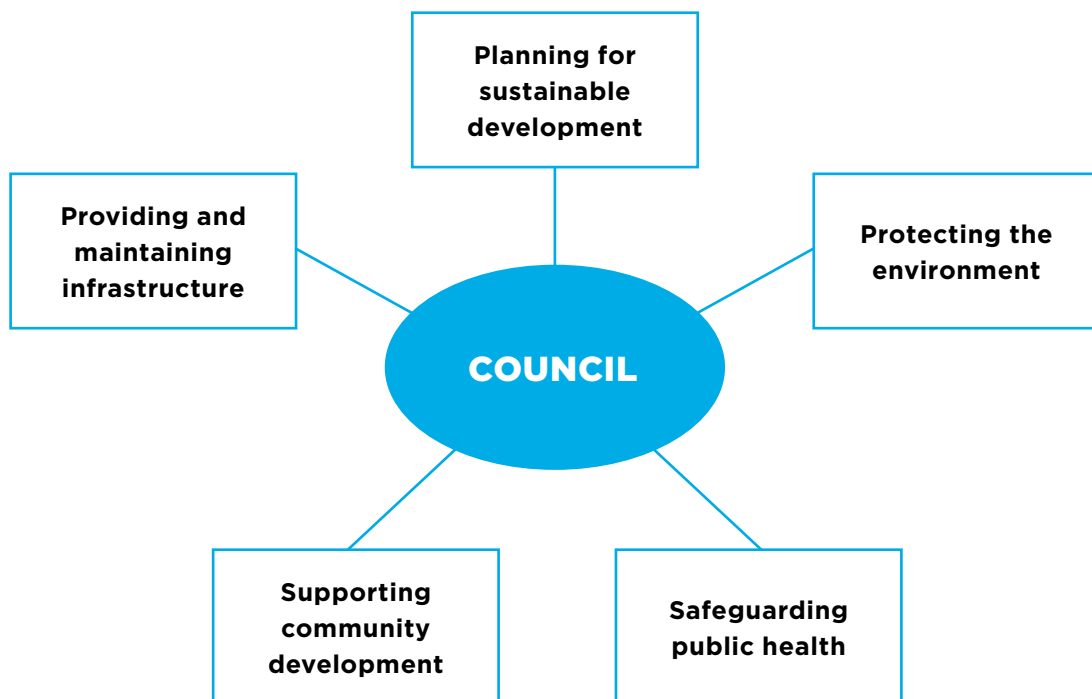
and members of the public. These committees provide councillors with the opportunity to participate in council decision-making at a more detailed level.

Councils employ staff to administer the council. The general manager is the most senior member of staff and is responsible to the council for carrying out council decisions and policy and overseeing the day-to-day operation of the council.

The general manager provides the link between the elected council and its employees. While all council staff have a duty to carry out council decisions, they are responsible to the general manager, not the councillors. Individual councillors cannot direct staff in their day-to-day activities. However, this is counterbalanced by the responsibility of general managers to provide information, guidance and support to councillors to make good decisions.

## 1.5 Services and functions that councils provide

Councils provide a very wide range of services and functions. Broadly, these may be grouped into five categories, as shown below.



---

### Services and functions that councils provide

Examples of services that fall into each of these categories are given below. These represent a sample only.

#### Providing and maintaining infrastructure

Providing an appropriate and affordable level of infrastructure is one important contribution a council makes to its community. For example, councils provide and maintain local roads, bridges, public car parks, footpaths, sporting fields, parks and art galleries. Outside of metropolitan areas, councils are also responsible for water and sewerage. Councils must consult with their local community about providing and maintaining these public assets.

#### Planning for sustainable development

Councils have a major role in providing long term strategic planning for a local government area as well as town planning, zoning and sub-divisions. They engage communities in key planning decisions that will affect the growth of their communities. They seek to integrate planning for infrastructure with the strategic planning of land use so that infrastructure that supports growth is funded and delivered.

In addition, councils are responsible for processing development applications, for building site and compliance inspections, and for ensuring compliance with building regulations.



## Protecting the environment

Councils also have a major role in helping to protect the environment. They have responsibilities under the Protection of the *Environment Operations Act 1997* and can issue various protection of the environment notices including clean up, prevention, compliance cost, provision of records and information and noise control notices.

Councils regularly assess the state of their local environment, provide environmental programs and use their regulatory powers to prevent pollution or restore degraded environments.

Councils also have environmental protection responsibilities under other legislation. For example, councils are responsible for noxious weed control under the Noxious Weeds Act 1993.

They also carry out activities to preserve access and amenity to the environment, such as recycling, street cleaning, regulating parking and management of vegetation including bush land reserves.

## Supporting the community

Councils regularly consult with and assess the needs of their community with a view to supporting the community and its development. They provide a range of services, including some aimed at groups in the community with special needs.

Community services include libraries, sport and recreation facilities, home care services such as 'meals on wheels', swimming pools, playground facilities and child care centres.

## Supporting economic development

Many councils contribute to economic development by working with local businesses, coordinating economic development groups/ activities/events and providing tourism services and facilities.

## Safeguarding public health

Councils help maintain high standards of public health and reduce the risk of exposure to a wide range of diseases through activities such as food shop inspections, waste disposal, pest and vermin control and hazardous material containment. They also ensure public safety through controlling dogs and cats (or companion animals).

### 1.5.1 Why does local service provision vary between councils?

Councils can choose the range and quality of services they provide, based on discussions with their community about their needs and what they want to pay for. This is done through the Integrated Planning and Reporting framework process, which is explained in more detail later.

## 1.6 How are councils funded?

On average, councils receive 21 per cent of their regular income from ordinary land rates, which is paid by landowners. Councils can also charge for services such as waste management, and water supply and sewerage (outside metropolitan areas). Charges must be used specifically for the purposes for which they are collected.

Councils can get additional income from fees for things like parking and the use of publicly owned facilities like swimming pools, halls and other user-pays services. Fees can also be charged for giving information, supplying products or processing applications.

All councils receive a Financial Assistance Grant every year, which is paid by the Australian Government through the State Government. The amount of the grant varies from council to council. Councils receive grants from other sources from time to time. For example, Roads and Maritime Services may make a grant for work on a particular road.

Councils may borrow funds for any purpose. Councils may also invest funds and receive income from the interest. Ministerial Investment and Borrowing Orders and associated guidelines provide the framework in which councils may invest and borrow.

Council revenue is discussed in further detail in [Section 6—Financial Management](#).

## 1.7 Legal framework

Councils work within the laws established by the NSW Parliament. The *Local Government Act 1993* provides a legislative framework reflecting modern community expectations, and gives councils broad powers to plan for and provide local community services and facilities. The Act is administered by the Minister for Local Government through the Office of Local Government.

**Councillors have a wide range of legislative responsibilities with which they need to acquaint themselves.**

As well as the *Local Government Act 1993*, there are a number of other laws which councils are responsible for implementing.

For example, councils have responsibilities for animal control under both the *Companion Animals Act 1998* and the *Impounding Act 1993*; for building and development controls under the *Environmental Planning and Assessment Act 1979*; for environmental protection under the *Protection of the Environment Operations Act 1997*; for the control of noxious weeds under the *Noxious Weeds Act 1993*, and for the provision, maintenance and management of roads under the *Roads Act 1993*.

The *Local Government Act 1993* provides councils with broad service powers. At the same time, if a council takes action or makes a decision without the necessary legislative authority, it may be held by a court of law to be acting beyond its power. If a council's power is not exercised in the manner prescribed by Parliament, it may be deemed not to have been exercised at all.

**Councils must take care to exercise their powers properly. Otherwise their decisions, and any resultant actions, may be declared void by a court, often with consequent financial loss.**

When a council has to make a decision involving a value judgement, it must do so with fairness and justice. Natural justice requires that the decision be unbiased and that everyone whose rights and interests are affected is given an opportunity to express their views before the decision is made. Adequate notice of the decision should also be given so that any right to be heard can be exercised.

A council may be liable for actions carried out negligently that result in damage or injury to persons or property. This liability extends to the actions of employees or other people to whom the council's functions have been delegated.

However, councillors and employees will not incur personal liability where the matter complained of was done in 'good faith' for the purpose of executing any Act. 'Good faith' can be broadly defined in this context as something done honestly.

### **1.7.1 Limited legal protection**

The *Local Government Act 1993* provides councillors with a level of protection from civil liability action for undertaking council-related and council-endorsed activities as a councillor.

**Protection from civil liability is only provided where a councillor's actions are undertaken in the manner referred to in the relevant sections of the Local Government Act 1993, including in good faith and for purposes related to council activities.**

Councillors must read and understand sections 731, 732 and 733 of the *Local Government Act 1993*, which provides protection. In the event that a councillor does not understand an issue, it is the obligation of that councillor to seek and be guided by their own legal advice. Councils are required to have an adopted 'Payment of Expenses and Facilities for Mayors and Councillors' policy which may outline the circumstances where the council will reimburse an elected representative's legal expenses.

In relation to defamation action, a council may be sued for defamation, although it cannot itself sue for defamation. Individual councillors and council employees may also be sued for defamation, whether in their private or public capacities.

Generally speaking, councillors at meetings of council (or council committees) are protected from defamation by the defence of 'qualified privilege', but only to enable them to speak freely and publicly in undertaking their duties in council meetings.

Any comment or statement a councillor makes at a council meeting must be relevant to the council business, made in good faith and without malice.

# SECTION 2

## ROLES, RESPONSIBILITIES AND RELATIONSHIPS

**The importance of trust and mutual respect within the council team and between council and senior management cannot be underestimated.**

Councillors can have a major and positive impact on the health and well-being of the whole community.

A good working relationship between councillors, the mayor, the general manager and other council staff is fundamental to an effective council.

Councillors must also have an understanding of how to manage external relationships, with the community, the media and other organisations including State agencies.

The roles of key people in councils, including councillors and the general manager, are defined in the *Local Government Act 1993* and are discussed in detail below.

### 2.1 Roles and responsibilities

#### 2.1.1 Role of a councillor

##### The role of the governing body of a council

Councillors comprise the governing body of a council in the same way that a Board of Directors is the governing body of a corporation. The *Local Government Act 1993* prescribes the collective role of a council's governing body as follows:

- » to direct and control the affairs of the council in accordance with the Act
- » to provide effective civic leadership to the local community
- » to ensure as far as possible the financial sustainability of the council
- » to ensure as far as possible that the council acts in accordance with the principles for local government (as described above) and the plans, programs, strategies and policies of the council
- » to develop and endorse the community strategic plan, delivery program and other strategic plans, programs, strategies and policies of the council
- » to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) of the council and for the benefit of the local area
- » to keep under review the performance of the council, including service delivery

- » to make decisions necessary for the proper exercise of the council's regulatory functions
- » to determine the process for appointment of the general manager by the council and to monitor the general manager's performance
- » to determine the senior staff positions within the organisation structure of the council
- » to consult regularly with community organisations and other key stakeholders and keep them informed of the council's decisions and activities
- » to be responsible for ensuring that the council acts honestly, efficiently and appropriately.

As members of the governing body, and in the interests of ensuring the organisation operates effectively to achieve the best outcomes for the community, councillors should endeavour to work constructively with council staff that are responsible for implementing council decisions.

This need is reflected in the Act which requires the governing bodies of councils to consult with the general manager in directing and controlling the affairs of the council.

##### The role of individual councillors

The Act prescribes the role of individual councillors as follows:

- » to be an active and contributing member of the governing body
- » to make considered and well informed decisions as a member of the governing body
- » to participate in the development of the Integrated Planning and Reporting framework
- » to represent the collective interests of residents, ratepayers and the local community
- » to facilitate communication between the local community and the governing body
- » to uphold and represent accurately the policies and decisions of the governing body
- » to make all reasonable efforts to acquire and maintain the skills necessary to perform the role of a councillor.

The Act makes it clear that councillors are individually accountable to the local community for the performance of the council.

In the case of councils divided by wards, councillors have an obligation to make decisions that are in the best interests of the community as a whole, not just the ward that elected them.

While councillors are free, subject to their obligations under the council's Code of Conduct, to advocate a position on matters that are before the council for a decision, once a decision has been made they are required to 'uphold' the policies and decisions of the council.

The requirement to uphold the policies and decisions of the council should be read in the context of the implied freedom of political communication under the Australian Constitution. In practical terms, councillors remain free to speak about the policies and decisions of the council but they must accept and abide by them and must not misrepresent them.

### Councillors' oath of office

Under the *Local Government Act 1993*, councillors are obliged to take an oath or affirmation of office at or before the first meeting of the council after they are elected. In doing so, councillors

are required to swear or affirm that they will undertake the duties of the office of councillor in the best interests of the local community and the council and that they will faithfully and impartially carry out the functions to the best of their abilities.

The oath or affirmation of office operates as a mechanism for inducting councillors into their role and reinforcing for them the seriousness of the responsibilities and duties that role entails.

A councillor who fails, without a reasonable excuse, to take the oath or affirmation of office, will not be entitled to attend council meetings until they do so and will be taken to be absent without leave.

If a councillor is absent without leave for three consecutive ordinary council meetings their office is automatically declared vacant and a by-election must be held.

### What does a councillor do as a 'member of the governing body'?

**One of the most important roles of a councillor is to participate in policy decision-making on behalf of the community.**

Councillors must work as a team to make decisions and policies that guide the activities of the council. Policies can be defined as the principles and intent behind the programs that a council implements.

This includes setting the broad, strategic direction for the local community. To do this, councillors have to understand their community's, characteristics and needs, and the types of services required to meet these needs.

The key responsibilities of the council's governing body in working with and through the general manager are to:

- » prepare and adopt the community strategic plan, delivery program and operational plan

- » develop the policy framework for their council in relation to the council's regulatory functions
- » develop and oversee the delivery of the council's strategic plans that shape the future direction for the local area
- » make sure that taxpayers' money is spent in the best interest of the community
- » make sure that the council is fulfilling its regulatory functions appropriately by developing policies
- » make sure that the general manager, through performance measurement in his or her employment contract, carries out all of council's policies, plans and strategies appropriately
- » provide accountability to the community by reporting on the outcomes of council's activities
- » monitor and review the performance of the council.

In doing all of these things councillors must consider the principles for local government as outlined in *Section 1* of this publication.

Council will benefit by analysing its activities from time to time, including asking how it is spending its time, where its priorities should be and whether it has the balance of its priorities right.

### What does a councillor do as 'an elected representative'?

**A councillor's role as an elected representative is to provide an essential link between the community and council.**

Councillors are expected to represent the interests of the community, provide leadership, and communicate and promote the interests of the council to other levels of government and relevant bodies.

Councillors have a responsibility to make decisions in the best interest of the whole community when deciding on the provision of services and the allocation of resources.

Councillors also need to provide leadership and guidance to the community. This is especially important when communities face challenges, such as climate change, drought, high unemployment or skill shortages.

### How do councillors balance their roles?

Councillors must attempt to find a balance between the obligation to represent the interests of individual constituents and the need to make decisions on behalf of the whole community. This dilemma can cause some interesting debates in council.

**Councillors need to display leadership and integrity to help ensure that the decisions they make as a member of the governing body are in the best interest of all the community.**

Councillors can best help individual members of the community by satisfying themselves that their council's policies are being carried out correctly. If a councillor thinks that a policy needs changing, they need to debate this in a full meeting of council. It is inappropriate for a councillor to informally attempt to ignore or alter a policy in order to satisfy the demands of special groups.

The community expects every councillor to understand and provide representation on all council activities. So it is important that councillors quickly become familiar with the whole council area and the important issues affecting their community.

Councillors may find [Appendix 1 - Skills and knowledge checklist](#) useful in assisting them to identify the skills and knowledge they need to perform their role effectively.

### Determination of the organisation structure

After consulting with the general manager, the *Local Government Act 1993* requires the governing body of council to determine:

- » the senior staff positions within the organisation structure of the council

- » the roles and reporting lines (for other senior staff) of holders of senior staff positions
- » the resources to be allocated towards the employment of staff.

The general manager is responsible for determining non-senior staff positions within the organisation structure of the council but must do so in consultation with the governing body.

The Act requires the positions within the organisation structure of the council to be determined to give effect to the priorities identified in the council's community strategic plan and delivery program.

The general manager is responsible for the appointment of staff in accordance with the organisation structure determined by the council and the general manager and the resources approved by the council. The general manager is also responsible for the management, direction and dismissal of staff.

In the case of senior staff, the general manager may only appoint or dismiss senior staff after consultation with the council. It is important to note that while the general manager should consider the views of the governing body of the council in making a decision to appoint or dismiss a senior staff member, the ultimate decision to do so rests with the general manager and not the governing body. It is therefore not open to the governing body of the council to direct the general manager on the appointment or dismissal of senior (and any other) staff.

### Appointment and oversight of the general manager

The Act also requires all councils' governing bodies to appoint a person to be general manager.

The Office of Local Government has prepared *Guidelines for the Appointment and Oversight of General Managers* with the assistance of Local Government NSW (LGNSW) and Local Government Professionals Australia, NSW.

The Guidelines provide a checklist for councillors to refer to when considering:

- » the recruitment and appointment of general managers
- » re-appointment of general managers or ending contracts
- » conducting performance reviews of general managers
- » engaging in the day-to-day oversight of general managers.

The Guidelines aim to promote a consistent approach across NSW councils to the recruitment, appointment and oversight of general managers. They are issued under section 23A of the *Local Government Act 1993*. The [Guidelines](#) are available on the Office of Local Government's website at [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au).

## 2.1.2 Role of the mayor

**The mayor is considered to be the voice of the council and the leader of the community.**

Popularly elected mayors hold office for four years. Mayors who are elected by their fellow councillors hold office for two years.

The role of the mayor on a council is that of the 'first among equals'. The mayor has the same role and responsibilities as councillors but has additional responsibilities that reflect their leadership role.

**Under the Local Government Act 1993, the role of the mayor is to:**

- » be the leader of the council and a leader in the local community
- » advance community cohesion and promote civic awareness
- » be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities

- » exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council
- » preside at meetings of the council
- » ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act
- » ensure the timely development and adoption of the strategic plans, programs and policies of the council
- » promote the effective and consistent implementation of the strategic plans, programs and policies of the council
- » promote partnerships between the council and key stakeholders
- » advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council
- » in conjunction with the general manager, ensure adequate opportunities and mechanisms for engagement between the council and the local community
- » carry out the civic and ceremonial functions of the mayoral office
- » represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level
- » in consultation with the councillors, to lead performance appraisals of the general manager
- » exercise any other functions of the council that the council determines.

### 2.1.3 Role of the general manager

**The general manager's role is to implement council decisions without undue delay and carry out functions imposed by legislation.**

A council's governing body monitors the implementation of its decisions via reports by the general manager to council.

The general manager is the most senior employee of a council and is the only member of staff selected and appointed by councillors. The general manager is appointed on a renewable, fixed-term, performance-based contract for a maximum period of five years.

Under the Act the general manager has the following functions:

- » to conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council
- » to implement, without undue delay, lawful decisions of the council
- » to advise the mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of the council
- » to advise the mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of the council and other matters related to the council
- » to prepare, in consultation with the mayor and the governing body, the council's community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and annual report
- » to ensure that the mayor and other councillors are given timely information and advice, and the administrative and professional support necessary to effectively discharge their functions
- » to exercise any of the functions of the council that are delegated by the council to the general manager
- » to appoint staff in accordance with the organisation structure determined by the council and the general manager and the resources approved by the council
- » to direct and dismiss staff
- » to implement the council's workforce management strategy



- » any other functions that are conferred or imposed on the general manager.

A governing body of council may by a resolution delegate certain functions to the general manager. The general manager may, in turn, delegate functions to other staff with some exceptions. However, the general manager still retains responsibility to ensure that any sub-delegated function is carried out appropriately.

### 2.1.4 Role of council staff

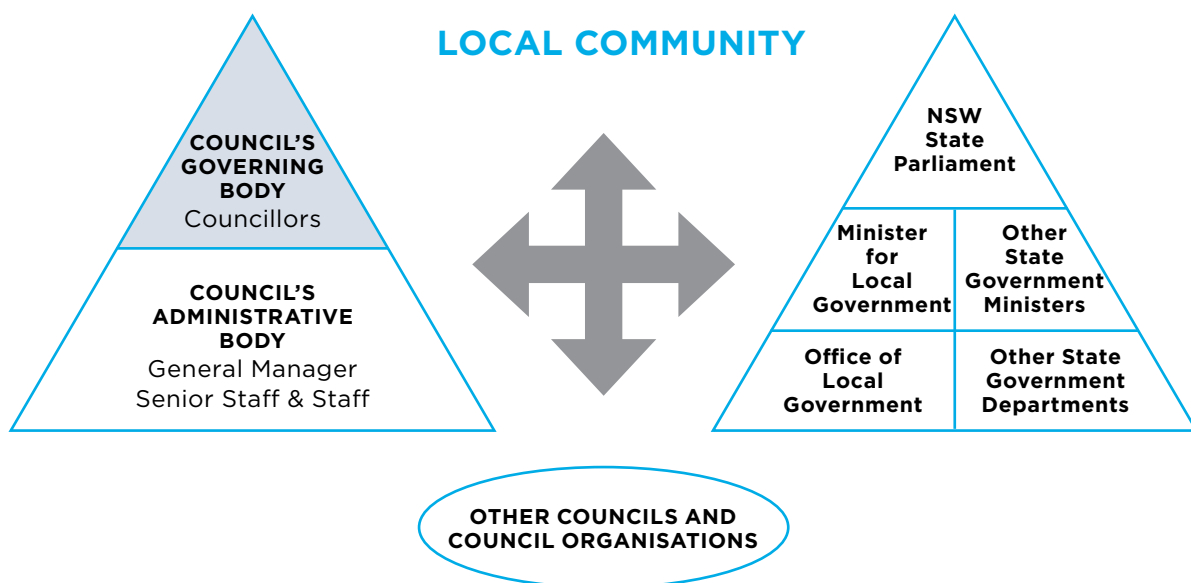
General managers employ council staff to carry out the day-to-day operations of the council and implement council policies and other decisions, as directed by the general manager.

The general manager is the primary link between the elected body and its employees.

Council staff are responsible to the general manager, who is responsible for the conduct and performance of council staff.

### 2.1.5 Role of the Minister for Local Government and the Office of Local Government

The Minister for Local Government is responsible for overseeing local government in NSW, including administration of the *Local Government Act 1993* under which local councils and county councils operate.



The Minister ensures councils operate within the law and the NSW Government's policies relating to local government.

The diagram above shows the relationship between NSW state and local governments and the community.

The Office of Local Government (OLG) is an executive agency of the NSW Government. The OLG is responsible to the Minister for Local Government and is the Minister's key adviser on local government matters. The OLG is a source of expertise for the NSW Government on all local government issues, including finance, infrastructure, governance, performance, collaboration and community engagement.

The OLG also undertakes important regulatory functions, such as conducting investigations, and supports and advises the Chief Executive and the Minister for Local Government in the exercise of their statutory powers to respond to council under-performance and official misconduct.

The OLG also implements the decisions of the Minister and the NSW Government relating to local government, which includes delivering programs across NSW to strengthen councils and to build local government capacity. In carrying out its functions, the Office of Local Government strives to work collaboratively with the NSW local government sector.

## 2.1.6 Role of Local Government NSW

Local Government NSW represents general purpose councils, special purpose councils and the NSW Aboriginal Land Council. LGNSW's objective is to strengthen and protect an effective, democratic system of Local Government across NSW by supporting and advocating on behalf of member councils and delivering a range of relevant, quality services.

LGNSW is headed by a President, two Vice Presidents (Metropolitan/Urban and Regional/Rural), Treasurer and a Board of Directors. All Board members are elected democratically every two years at the LGNSW annual conference.

The LGNSW annual conference is an important opportunity for councillors to be updated about important issues for local government, vote on policy directions and network with other councillors.

LGNSW produces a range of member-focused publications, newsletters and updates, including a weekly e-newsletter which can help you stay up to date on topical issues and events.

## 2.1.7 Role of Local Government Professionals Australia, NSW

Local Government Professionals Australia, NSW is the peak body for local government professionals and managers. It seeks to ensure the organisation and its members are industry leaders and are at the forefront of good practice, change, innovation and the continuous improvement of local government.

The goal of Local Government Professionals Australia, NSW is to provide advocacy, networking, leadership, learning and support for members. It represents and supports professional practice by upholding a code of conduct and assists its members and councils with professional development and a range of council improvement services.

Further information and contact details for these organisations and other key State Government agencies may be found in [Appendix 3—Key organisations](#).

## 2.1.8 Joint Organisations of Councils

Creating new Joint Organisations (JOs) is a key component of the NSW Government's commitment to achieve strong, modern local government in NSW.

JOs are designed to provide a forum for local councils, the NSW Government and others to work together on regional strategic priorities and on things that matter most to regional and rural communities, such as jobs, education and transport.

JOs would give communities a stronger voice, improve collaboration between State and local governments and make it easier to undertake important projects across council boundaries.

In 2015, councils in five regions piloted different models for regional collaboration. The pilot process informed the development of a potential model for JOs that was consulted on during June 2016. This demonstrated that JOs can work for regional councils and communities.

Based on the lessons learned from the JO pilots and consultation, the Office of Local Government has developed a proposed model that would see JOs created as statutory bodies corporate under the Local Government Act 1993.

JOs would undertake core functions at a regional level including:

- » strategic planning and priority setting
- » intergovernmental collaboration
- » regional leadership and advocacy.

JOs would also be able to undertake other functions, like offering shared services delivery for member councils that agree to do so.

It is proposed that each JO Board would be made up of mayors of all voting member councils with equal voting rights, and a nominee of the NSW Department of Premier and Cabinet as a non-voting member. Each JO Board would also have the option of inviting other organisations to participate as non-voting members such as neighbouring councils and county councils.

Please note, at the time this Handbook was printed, the enabling legislation for JOs had not been introduced into the NSW Parliament.

## 2.2 Managing internal council relationships

**A good working relationship between councillors, the mayor, the general manager and other council staff is fundamental to an effective council.**

The following section provides an overview of the various relationships between councillors and other internal council officials and staff. This issue is dealt with in greater detail in the professional development program for councillors run by Local Government NSW.

### 2.2.1 Relationship between the mayor and the general manager

The relationship between the mayor and the general manager is the most important one in a council and can have a significant impact on the council's performance.

As their relationship is often subject to community and media scrutiny it is important for the mayor and general manager to have a transparent and supportive working relationship. Should conflict or significant differences of opinion arise, both the mayor and the general manager should work to ensure that they are resolved in a timely manner, and not in the public eye.

The mayor and general manager also exercise key leadership roles within the organisation. The mayor also has a key role in the appointment of the general manager and therefore requires a full understanding of the general manager's role and responsibilities.

### 2.2.2 Relationship between councillors and the general manager

The quality of the relationship between a general manager and councillors is vital to a healthy and effective organisation. Public inquiry outcomes show that where this relationship breaks down, the organisation may become dysfunctional and communities lose confidence in the council.

#### Indicators of good working relationships between councillors and managers (adapted from material provided by the UTS Centre for Local Government)

- » Councillors who publicly express faith in general managers and staff
- » General managers who support councillors in their role and who consider ways to improve their levels of support
- » A clear understanding about how councillors ask questions and receive information from staff, and a formal communication protocol which matches everyday practice
- » Informal briefings and discussions in which councillors can ask for advice and discuss their position on key decisions
- » Opportunities for staff who are experts in their area to put forward their experiences and opinions to councillors to inform key decisions
- » Council decisions which are seen as being based on merit rather than 'the numbers game'
- » Relationships which are characterised by respect, good humour and good faith.

**The general manager is made accountable to their council principally through their contract of employment. The role of the governing body, led by the mayor, is to oversee the general manager's performance in accordance with the Standard Contract.**

The relationship between the general manager and the council is managed through the general manager's contract of employment.

The Office of Local Government has standardised the contract of employment for general managers in consultation with the local government sector.

The standard contract provides for the performance of the general manager to be formally reviewed at least annually against the agreed performance criteria for the position. The agreed performance criteria are set out in an agreement that is signed within three months of the commencement of the contract. A council may also undertake interim performance reviews as appropriate.

The general manager must sign a performance agreement with the council. Other senior staff must sign a performance agreement with the general manager. These performance agreements should reflect the activities, performance targets and performance measures as outlined in the council's delivery program.

**Monitoring and reviewing the general manager's performance**

**Performance management is an essential part of good management practice. It provides not only a means to monitor the council's performance but also a means to recognise and reward good performance and to manage under-performance.**

The development of a performance agreement and regular review of the general manager's performance against the criteria set out in

the agreement establishes links between the council's and the general manager's objectives and priorities and helps improve the council's performance.

It is recommended that the general manager's performance be reviewed by a panel of councillors. Where a panel is formed, it is further recommended that the whole process of performance management be delegated to the panel.

It is also recommended that the role of the review panel should include:

- » conducting performance reviews
- » reporting the findings and recommendations of those reviews to council
- » development of the performance agreement.

This process provides a good forum for constructive discussion and feedback.

Councillors selected to take part in the panel should have received training on the performance management of general managers.

Although the composition of the panel is up to the governing body, the usual mix is the mayor, the deputy mayor and one councillor nominated by the governing body. The general manager should also have the option of nominating another councillor to the panel.

All councillors should be notified of relevant dates in the performance review cycle and be kept advised of the panel's findings and recommendations.

Councillors not on this panel should provide comments and feedback to the mayor in the week prior to each review session. The result should be reported to a closed meeting of council or a committee of council.

While there may be instances where immediate action is necessary, it is generally expected that termination of a contract on the basis of poor performance would be the last resort.

The panel should maintain the confidentiality of the review process, including the paperwork and content of the review. In some instances the information may be potentially damaging. Local Government NSW can provide an independent facilitator to support the review process.

### 2.2.3 Relationships between councillors and staff

The general manager is the crucial link between councillors and staff.

Generally, requests for assistance or information should go through the general manager, except where he or she has authorised another council officer to undertake this role.

Similarly, if a staff member needs to talk with a councillor or the mayor, approval should be obtained from the general manager or the appropriate authorised officer. Where authority is given to another council officer, it is the general

manager’s responsibility to monitor, as far as practicable, that the policy is being observed.

**Individual councillors do not have the right to direct council staff in their day-to-day activities.**

Councillors must not contact a member of council staff on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager.

It is sometimes necessary for councillors and staff to interact and work together so that informed decisions can be made and positive outcomes achieved. Mutual respect, sharing of information and open debate are hallmarks for successful relationships between councillors and staff.

| Sharing information   | Demonstrating respect   | Ensuring open debate   |
|---|---|--|
| <ul style="list-style-type: none"> <li>» Regular meetings between the general manager and councillors</li> <li>» Briefing sessions for councillors which are well attended</li> <li>» Clear protocols about councillor contact with staff which are agreed and implemented, including a systematic approach to responding to councillor requests</li> </ul> | <ul style="list-style-type: none"> <li>» Honouring the Code of Conduct</li> <li>» Meeting behaviour which is characterised by respectful language, even in difficult times</li> <li>» Staff and councillors presenting a united front in public forums</li> <li>» Media statements which refrain from personal criticism</li> <li>» Joint participation in community engagement activities</li> <li>» Support for professional development for councillors, managers and staff</li> </ul> | <ul style="list-style-type: none"> <li>» Support for professional development for councillors, managers and staff</li> <li>» Briefing sessions which enable both councillors and staff to contribute freely</li> <li>» Council records which include staff recommendations, council resolutions and a rationale if the two differ</li> </ul> |

## Personal interaction between councillors and staff

The Office of Local Government's *Model Code of Conduct for Local Councils in NSW* together with councils' adopted protocols or procedures govern the interactions between councillors and staff that relate to council business while they are undertaking their public duties.

However, the Model Code of Conduct does not prevent councillors and staff communicating. It is a normal part of community life that council staff and councillors would be, from time to time, present at the same social or community events. However, in such situations both parties should ensure that council business is not discussed.

The Model Code of Conduct is discussed in further detail in [Section 3.1](#).

## 2.3 Managing external relationships

### 2.3.1 The importance of community engagement

**While participatory democracy is an important part of local government decision-making it is essential that councils have a clear, robust and structured community engagement process in place. This helps ensure that the best decisions are made for the whole community, including 'the silent majority'.**

Councillors are the representatives of the community. Therefore, they are accountable to the community. It is important that the community is able to contact and meet with councillors to discuss and contribute their views and ideas. Councillors should therefore spend time undertaking formal and informal community engagement. This helps ensure that a council's policies and programs are acceptable to, and meet the needs of, the community.

When a council is developing important policies, strategies and plans, such as a council's community strategic plan, delivery program or operational plan, it is required by law to put the drafts on public exhibition and consider all the comments or submissions received.

The *Local Government Act 1993* also requires councils to adopt a community engagement strategy to guide its engagement with the local community when developing their plans, policies and programs (other than routine administrative matters).

The Act also contains other important mechanisms to enable a council to more formally engage and consult with its community. For example, a council may conduct a poll on an important issue to get an understanding of the

community's views on a matter, such as whether to impose an environmental levy.

Councils may also hold constitutional referendums on some matters such as whether to increase or decrease the number of councillors, whether to divide an area into wards or abolish wards, or whether to change the method of election of the mayor.

### Effective engagement

#### The community engagement process needs to be robust, collaborative, inclusive and sustainable.

Community engagement is a mechanism to assist councillors to understand and incorporate the public will and community concerns into decision-making. Community engagement should not be viewed as a 'box-ticking' exercise, or something that is only undertaken to pacify the vocal minority.

Good community engagement involves a two-way flow of information. Community engagement can be a very effective way of increasing community understanding of an issue, and a way to increase support for council policies and decisions.

Councils should ensure that the community engagement process is robust, collaborative and inclusive. They can do this by clearly defining the issues in question, identifying all relevant stakeholders and giving them the opportunity to participate, and by allocating sufficient time to the process. Councils should also provide clear feedback to the community on the outcomes of any engagement activities.

This can help councils to ensure the sustainability of community engagement. If community members feel that they have the opportunity to actively participate in engagement activities and that their participation is meaningful, they may be more willing to participate in the process in the future.

More information about effective community engagement is included in [Appendix 6—Tips for effective community engagement](#).

### Methods for engaging with the community

While councillors are generally constrained by the inherent costs associated with undertaking large-scale engagement activities, the following information is provided as a guide to the various methods of smaller scale community engagement available to councillors.

Community engagement will only provide the views of a sample of the community. When planning engagement activities, consideration should be given to what is the most appropriate form of engagement for the audience and the circumstances.

Different methods of community engagement include:

- » **Face-to-face** – Public meetings are the most common method of sharing information. They are a useful way to provide members of the community with direct access to the councillors. However, care must be taken to ensure that meetings are held in public venues appropriate to the size and make up of the audience. Meetings should also be well-facilitated and conducted in a structured and orderly fashion. Options include small, targeted meetings; larger, open public meetings; or a series of ongoing meetings.
- » **Surveys** – Surveys can be useful for collecting information from a small sample of the community on specific issues. However, the usefulness of surveys can be limited for community members who have literacy or language difficulties.
- » **Letter writing** – Letters can take the form of formal mass mail outs to a broad cross-section of the community or smaller scale personal letters to targeted groups and individuals. Letters should be well-researched and appropriate in content and style. Like surveys, the usefulness of letter writing can be limited



for community members who have literacy or language difficulties.

- » **Telephone** – Telephone can be a useful way of directly contacting individual members of the community. It is particularly useful in the case of targeted community engagement, as the more broad-scale telephoning of individuals can be a time consuming exercise. Consideration should be given to the timing and appropriateness of phone contact as many people consider this invasive, particularly evening calling. The usefulness of telephone consultation can also be limited for members of the community who experience language and speech difficulties.
- » **Social media** – Most councils have Facebook pages which can be updated continually to reach community members in real-time to share information, seek feedback or answer questions. Some councils and councillors contribute to public information sharing about various issues and events through Twitter. A number of councils also have YouTube channels and produce clips on various topics including local infrastructure projects. Advances in digital technology have also allowed councils to develop smartphone apps to assist residents and ratepayers interact with them on a range of issues. Links to further information about social media can be found in [Appendix 5—Dealing with the media](#).

### Additional resources on community engagement

The Office of Local Government’s Integrated Planning and Reporting webpage contains information and links to additional resources on effective community engagement.

## 2.3.2 Accountability

### Councillors are accountable to the community through community engagement, open and transparent decision-making, as well as regular planning and reporting.

Ultimately, councillors are accountable to the community every four years on election day. However, at all times, council decision-making should be transparent. Fundamentally, community engagement processes are designed to promote a culture of accountability to the local community.

Implicitly, the needs of the community should be reflected in the decisions of council.

Councils must regularly provide information to the public, which demonstrates:

- » the council is being administered in accordance with the *Local Government Act 1993*
- » the council is allocating resources consistent with its vision and strategic plan as well as the corporate objectives stated in the community strategic plan
- » the performance of the council is monitored and reviewed to ensure council objectives are being pursued
- » the interests of all the community is served
- » each councillor is acting with integrity.

Further information about reporting requirements for councils can be found in *Section 5—Sound planning and reporting*.

### 2.3.3 Other external relationships

Building and maintaining good working relationships with other organisations helps to sustain an effective council. Councils should foster relationships with key organisations including other councils, other state and Australian government agencies, representative and industry bodies, and local industry and local community organisations.

The contact details for a number of key organisations and a brief description of their roles are contained in *Appendix 2 – Key organisations*.

#### Strategic collaboration

Strategic collaboration is an umbrella term for how councils work together. Collaboration can take many forms including alliances, partnerships and business clusters.

Its purpose is to reduce duplication of services, provide cost savings, access innovation, enhance skills development and open the way for local communities to share ideas and connect with others. Good collaboration enhances understanding of each other's roles and functions, provides a basis for sharing information and expertise and creates opportunities to work better together. It requires mature relationships based on shared information and a culture of collaboration, negotiation and trust.

Councils often collaborate through regional organisations of councils. In future, Joint Organisations (JOs) would create further opportunities for agreeing shared objectives and collaboration between councils at a regional level.

It is proposed that (JOs) would focus strongly on intergovernmental collaboration, which brings together all levels of government on policy development, service design or service delivery, including infrastructure priority setting. To enable effective intergovernmental collaboration, it is proposed that a Regional Director of the Department of Premier and Cabinet (DPC) in each region be a non-voting member of each JO and that the Executive Officer of each JO would be invited to attend meetings of DPC led Regional Leadership Groups.

## 2.4 Effective decision-making

The great majority of a councillor's work involves making important decisions about a council's direction and development. It is critical for all councillors to have the skills and information needed to make well-informed decisions that benefit council and the whole community.

To make effective and well-informed decisions, councillors must understand how to evaluate the range of plans, proposals, strategies and other matters that will constantly be before council.

### All reports before a council should:

- » enable councillors to assess the council's ability to achieve its strategic goals as articulated through its Integrated Planning and Reporting framework
- » provide information which is linked to the council's approved strategic or project plans (including community strategic plan, delivery program and operational plan), and the budgets that support those plans
- » assist councillors in assessing the merits of a proposal, or any other matter before council, and make well-informed decisions.

### Prior to making decisions councillors should ask four key questions:

- » What impact will the decision have on the community (including residents and ratepayers) and the environment in both the immediate and long term?
- » What impact will the decision have on council's finances both in the immediate and long term?
- » How does this decision fit in with the long-term direction of the council?
- » Are all of the relevant materials and facts available to make an informed decision?

In addition, specifically in relation to project proposals before the council, the first step in the process is to ensure that the proposal makes sense and that each part is logically supported with sound analysis and actions.

Some additional questions to ask include:

- » Will the performance measures contained in the proposal enable council to adequately monitor its progress and measure if it is achieving the desired outcome?
- » Does the proposal provide value for money?
- » Is the cost-benefit acceptable?

Other important issues relating to decision-making are also covered in [Section 5—Sound planning and reporting](#) and [Section 6—Financial management](#).

### 2.4.1 Meeting papers

Council papers are the 'tools' used most often by councillors to make decisions. Meeting or business papers should be of sufficient quantity and quality to allow all councillors to do their job properly and effectively.

**All the reports councillors receive should contain sufficient information to allow them to be able to assess council's performance and make appropriate, well-informed decisions.**

Council meeting papers are likely to include:

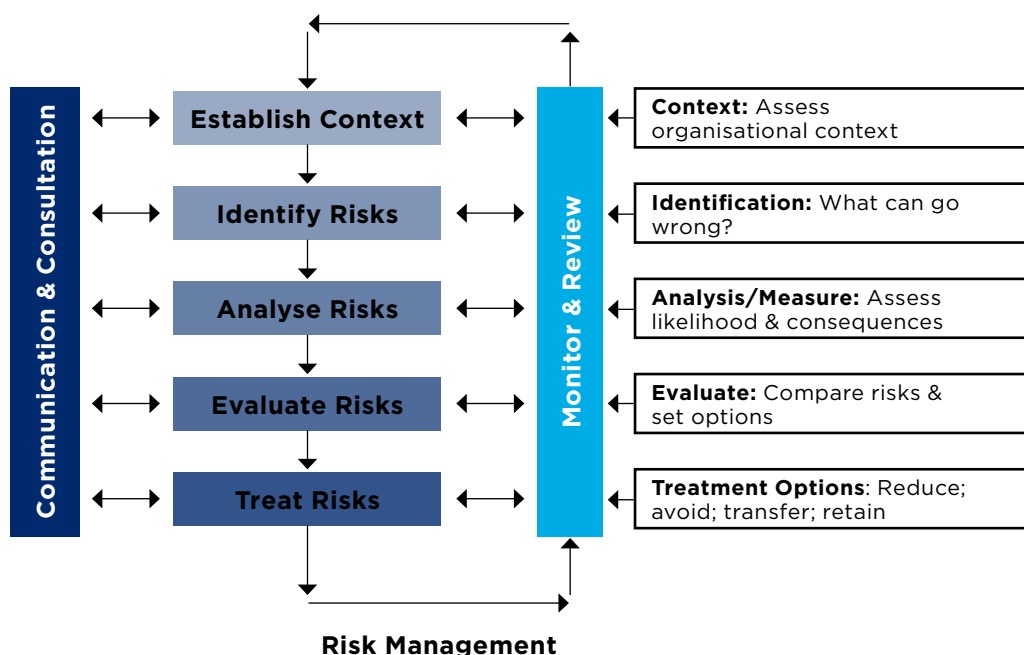
- » reports from the general manager
- » reports from senior staff in charge of the main functional areas of council such as environmental services, corporate services, engineering, community services and strategic and commercial services
- » reports on special projects or programs, as well as exceptional events or matters which involve council activities or impact on council business.

The papers may also include copies of minutes from council committee meetings.

Further information about good meeting practice can be found in [Section 4—Making the most of meetings](#).

## 2.5 Risk management

It is now well established that risk management is an essential part of effective corporate governance. Risk management is a process through which an organisation can systematically identify risks to its operation; analyse, evaluate and treat those risks; and implement a systematic process for the ongoing monitoring and review of the management of risks.



### Risk management

The diagram above illustrates the cyclical nature of risk management. Councils should continually monitor and review their risk management strategies and practices, and also ensure that effective consultation is undertaken in all stages of the process.

By understanding the potential risks they face, councils are better prepared to take appropriate action to minimise the impact of adverse risks and maximise opportunities to benefit from positive risks.

**Good risk management should be forward looking and assist in making good business decisions.**

Through proactive risk management treatment, the following outcomes can be achieved:

- » higher level of service delivery
- » more efficient, effective and economic allocation of resources
- » improved responsiveness and flexibility
- » increased accountability and transparency.

The administrative body of council, led by the general manager, has primary responsibility for the design and operation of the risk management and internal control framework of the council.

However, good governance in local government relies on the robust independent review of management, finances, risks and operations by council's governing body and a properly constituted audit committee which reports regularly to council's governing body.

As members of the governing body responsible for deciding the direction of council, councillors are responsible for determining the amount of risk exposure that the council is prepared to take. By having a risk management process in place councillors are able to make these decisions in a more accountable and transparent way.

Consequently, residents and ratepayers can be better informed about the reasons underpinning council decisions and this will result in greater confidence and trust in council's decisions.

The benefits for councillors of risk management include:

- » assistance in assessing proposals and allocating resources
- » assurance that the council has appropriate controls in place and is managing its compliance obligations appropriately
- » consequently freeing the councillors to focus on the key strategic business of council.

Risk management is a very valuable support to good governance. It provides the community with confidence that council is being managed in a responsible and accountable manner.

## 2.6 Other resources

The Governance Health Check (GHC) is a self-audit guide to good governance in local government. It is delivered through an online service called eConnect that councils can subscribe to.

The GHC was jointly developed by the Independent Commission Against Corruption and Local Government Professionals Australia, NSW. The GHC is designed to give councils a simple tool to identify key elements of corporate governance in a NSW local government context and to measure their progress in relation to each of these elements.

Councillors should check with their general manager to see if their council has access to the Governance Health Check, which is available to Local Government Professionals Australia, NSW eConnect subscribers.

# SECTION 3

## CODE OF CONDUCT AND ACTING ETHICALLY

### **The role of a councillor is a public one.**

Local communities rightly expect the highest standards of conduct of those they elect to hold office in a council. Failure to comply with these standards can undermine community confidence in individual councils and the local government sector as a whole. It also erodes the trust the community confers on their elected representatives.

For this reason, councillors—like other council officials such as staff and delegates of councils—are obliged to comply with prescribed ethical and behavioural standards in the performance of their role.

These standards are prescribed under the *Model Code of Conduct for Local Councils in NSW* (Model Code). All councils are required to adopt a Code of Conduct based on the Model Code. Breaches of a council's Code of Conduct are to be dealt with in accordance with the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW* which, like the Model Code, is prescribed under the *Local Government (General) Regulation 2005*.

Councillors may face disciplinary action by the Office of Local Government or the NSW Civil and Administrative Tribunal for serious or repeated breaches of these standards under the misconduct provisions of the *Local Government Act 1993*.

Penalties include suspension from office for up to six months or disqualification from holding office in any council for up to five years. Councillors who have been suspended on three or more occasions for misconduct are automatically disqualified from holding office in any council for five years.

Whenever councillors appear in public, even though they may not be doing anything related to their council position, they are usually seen as acting in their councillor role and judged in this light. This means the position of councillor is really a '24/7' one. Councillors therefore need to act at all times in a way that does not bring disrepute to either themselves or their council.

Acting ethically is not just about avoiding or managing conflicts of interests. It also applies to the interactions of councillors with council staff, members of the public, use of resources and any personal benefits councillors might obtain.

### **3.1 The Code of Conduct**

**The adoption of a Code of Conduct is an important means of ensuring councillors are responsible for their own conduct, for making decisions ethically and for being accountable to their communities.**

Councillors need to make difficult decisions that do not always have unanimous support in the community. In order to maintain the confidence of the community, councillors must ensure that these decisions are made in an ethical and impartial manner.

The Model Code of Conduct provides the foundation for ethical decision-making in local government. All councils must make and adopt a code of conduct based on this document. The Model Code sets the minimum standards of conduct for council officials in carrying out their functions.

The Model Code is prescribed by regulation. It is underpinned by procedures for dealing with breaches of the Code and provisions in the Act to impose sanctions.

The Model Code is necessarily a complex document that has been built as a result of feedback from councils and to tackle risks of corruption or other damaging behaviour.

To help councillors understand their obligations, the Office of Local Government has developed a summary document, explaining the standards of behaviour expected and what happens when these are not met. This is contained in [Appendix 7—Standards of conduct for council officials](#).

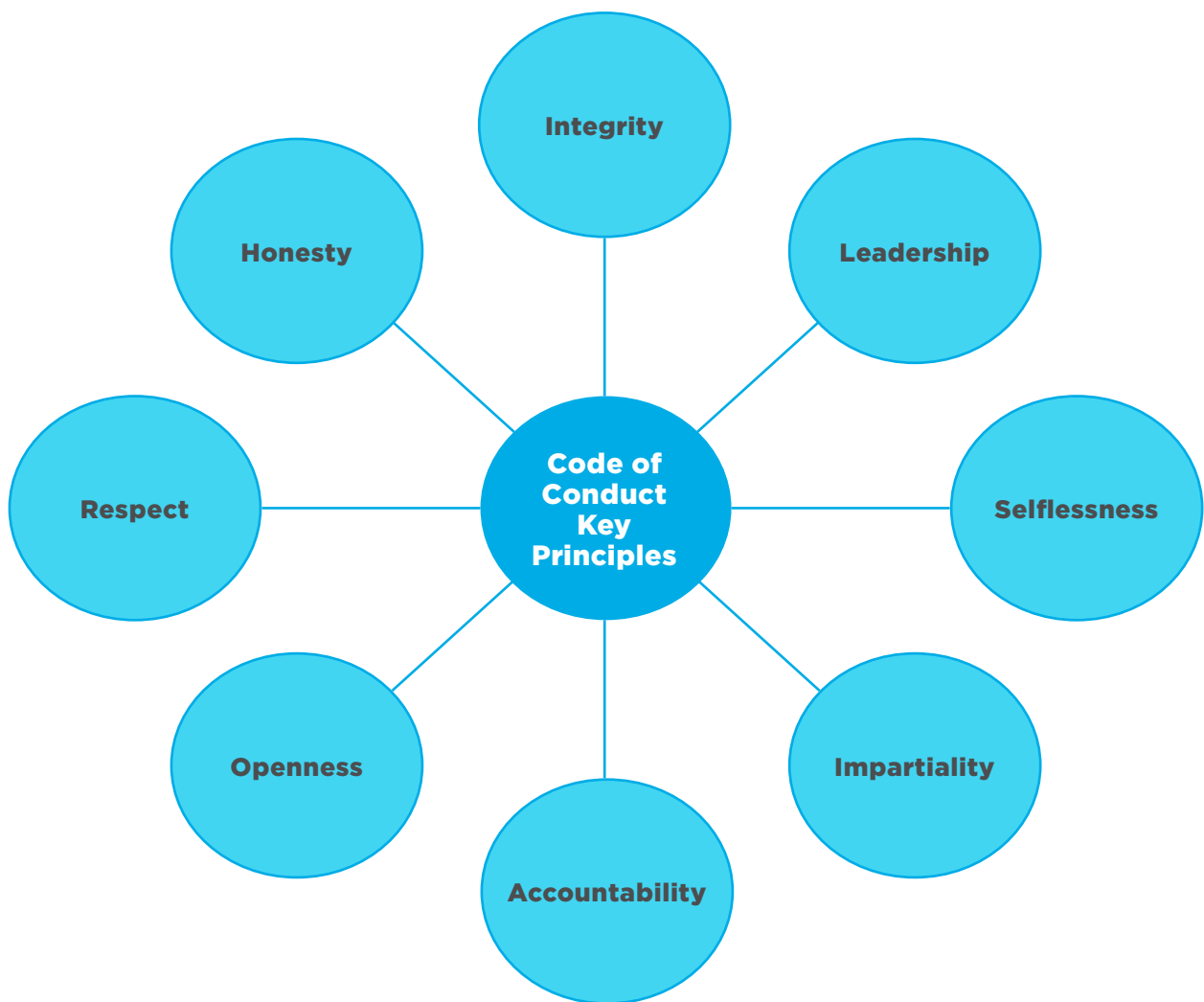
Councillors are expected to comply with all the provisions in their council's Code of Conduct, which is based on the Office's [Model Code of Conduct](#) (available on the Office of Local Government's website at [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)).

Following recent changes to the Act and Regulation, the Office of Local Government is currently reviewing the *Model Code of Conduct for Local Councils in NSW* and the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW* in consultation with councils and the local government sector in NSW. Once the review is complete, councils will be required to adopt the provisions of the revised Model Code of Conduct and Procedures.

### 3.1.1 General obligations

The Model Code of Conduct sets the standards of ethical and appropriate conduct for council officials in relation to their general conduct, conflicts of interests and personal benefit, relationships between council officials, access to council resources and information, and maintaining the code's integrity.

The obligations of council officials under the Model Code are informed by eight key principles: integrity, leadership, selflessness, impartiality, accountability, openness, honesty and respect.



Key principles of the Model Code of Conduct



## Key principles of the Model Code of Conduct

Councillors have certain general conduct obligations under the Model Code of Conduct. Specifically, councillors must:

- » act lawfully, honestly and with care and diligence in carrying out their functions
- » not conduct themselves in a manner that is likely to bring the council into disrepute
- » treat others with respect
- » consider issues consistently, promptly and fairly
- » not harass or discriminate against others
- » ensure that development decisions are properly made
- » not participate in binding caucus votes except in relation to nominations and elections.

In relation to binding caucus votes, councillors are permitted to discuss a matter before a meeting with other councillors and voluntarily agree to a shared position on a matter. However, they must retain their individual discretion and remain free to determine a matter on its merits.

### 3.1.2 Ethical decision-making

Key questions that councillors should ask themselves to ensure that their decisions are ethical and sound are:

- » Is the decision or conduct lawful?
- » Is the decision or conduct consistent with council's policy and with council's objectives and the code of conduct?
- » What will the outcome be for the councillor, work colleagues, the council, persons with whom they are associated and any other parties?
- » Do these outcomes raise a conflict of interest or lead to private gain or loss at public expense?
- » Can the decision or conduct be justified in terms of the public interest and would it withstand public scrutiny?

If councillors are uncertain about an action or decision, they should seek advice from the general manager. They may also wish to seek their own independent legal advice.

Councillors should exercise due care in undertaking their functions by acquainting themselves with the requirements of the *Local Government Act 1993*, their council's Code of Conduct, the details of the matters they are dealing with, and any factors which may affect their involvement in decision-making.

### 3.1.3 Conflicts of interest (pecuniary, non-pecuniary and political donations)

A conflict of interest exists where a reasonable and informed person would perceive that a councillor could be influenced by a private interest when carrying out their public duty.

**The importance of following the principles of ethical decision-making cannot be underestimated. There is significant potential for conflicts of interest to arise in the course of a councillor's role as an elected person, resident of the local area they represent and member of the governing body of council. Conflicts of interest must be managed appropriately.**

Councillors must consider how a reasonable person who is informed about the situation would view it.

#### Pecuniary conflicts of interest

Pecuniary conflicts of interest arise where councillors, or certain persons or entities that are associated with a councillor, are reasonably likely to make or lose money because of a decision the council might make. In such a case the Act requires the councillor to declare the interest and withdraw from the meeting while the matter is being debated and voted on.

Councillors also need to submit an annual written return of interests to the council including information on real property (meaning land and anything attached to it, including buildings), gifts, interests and positions in corporations, sources of income, and debts.

These may give rise to a pecuniary interest at a meeting and are made publicly available to make sure councillors are seen to be acting openly and honestly in the decisions they make.

### Non-pecuniary conflicts of interest

Non-pecuniary conflicts of interest commonly arise out of family or personal relationships, through an association a councillor, or someone close to them, may have through involvement in a sporting, social or other kind of group or association. The political views of a councillor do not constitute a private interest.

The greater a councillor's involvement with the club or organisation, the greater the likelihood of a real or perceived conflict of interest.

The Model Code recognises two forms of non-pecuniary conflicts of interest: *significant* and *less than significant*.

An example of a significant non-pecuniary conflict of interest could be where the councillor is an active member and involved in the running of a sporting club that submits a development application to the council for a major extension of its facilities.

In this instance there may be a public perception that the councillor's activities with the club would make it difficult for the councillor to view the matter before the council impartially. When the matter comes before council, the councillor needs to consider whether or not he or she has a significant conflict of interest and, if so, must disclose the nature of the conflict and refrain from participating in the discussion and voting on the matter.

By contrast, if a councillor is merely a member of a large club and utilises its facilities via membership, it is unlikely that this membership alone would conflict with their role as a councillor representing the views of the residents and ratepayers generally.

However, a councillor should still consider if this raises a less than significant conflict of interests and if so, he or she should disclose this, as well as the nature of the interest and a brief explanation of why no further action is required in the circumstances. It always remains open for councillors to take additional steps to manage any perception of a conflict of interests.

### Political donations

Councillors should be aware that matters before councils involving election campaign donors may also give rise to a non-pecuniary conflict of interests. The Model Code contains a number of provisions to assist councillors to identify, disclose and appropriately manage conflicts of interests that may arise as a result of political donations they have benefited from.

In particular, where a councillor has received or knowingly benefited from a reportable political donation of \$1,000 or more in the last four years, and the donor has a matter before the council, the councillor must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and remove themselves from consideration of the matter. This obligation applies to donations received in relation to council, State and Federal election campaigns.

Donations of under \$1,000 may also give rise to non-pecuniary conflicts of interests in certain circumstances (e.g. because of the nature of the relationship between the councillor and the donor) that must be disclosed and managed in accordance with the requirements under the Model Code of Conduct.

### 3.1.4 Gifts and benefits

Councillors may find they are offered gifts or benefits such as free tickets to major sporting or other events. These gifts could be offered innocently and in good faith or they could be an attempt to influence. The Model Code places an obligation on councillors not to accept gifts or benefits of more than token value. However, these may often be attractive and there are circumstances where they can be difficult to refuse.

Councillors need to think about how the community might perceive their acceptance of these gifts. Feelings of obligation can arise by accepting a gift. Members of the public might think a councillor's ability to make impartial decisions has been compromised.

In circumstances where a gift or benefit cannot reasonably be refused or returned, councillors are required to surrender it to council and ensure that it is recorded in the council's gifts register.

### 3.1.5 Access to information and resources

**Councillors are entitled to such information necessary for the performance of their functions. However, this is counterbalanced by the obligation to use this information appropriately and to maintain the integrity and security of confidential information.**

A council's Code of Conduct also discusses how a councillor can get access to information and other council resources such as the expertise of council staff. Access to council staff expertise must happen through the general manager, or in accordance with a system that is put in place to facilitate and coordinate councillor requests for information or action.

### 3.1.6 Appropriate lobbying

**The Model Code of Conduct and the Local Government Act 1993 recognise that appropriate lobbying of councillors is a normal part of the democratic system and that councillors have a representative role in considering the views of their constituents and communicating with them.**

Councillors would be aware that at some time they are likely to be lobbied by a wide range of people including individuals, organisations, companies and developers. It is essential that councillors understand the difference between appropriate and inappropriate lobbying, and do not engage in lobbying which could be considered inappropriate or unlawful and likely to undermine community confidence in a council's decision making.

Inappropriate lobbying usually involves an attempt to obtain preferential consideration or treatment based on factors other than the merits of a matter.

The Independent Commission Against Corruption has produced a brochure which contains specific information about all aspects of lobbying local government councillors.

## Appropriate vs inappropriate lobbying

### Examples of appropriate lobbying behaviours are:

- ✓ keeping records of meetings with lobbyists or objectors
- ✓ holding meetings in appropriate locations such as council offices
- ✓ ensuring other people are present
- ✓ making sure that any information obtained when being lobbied is available to council staff and other councillors.

### Examples of inappropriate councillor conduct that could occur during lobbying include:

- ✗ disclosing confidential information while being lobbied
- ✗ accepting a political donation in return for a favourable exercise of discretion during decision-making
- ✗ giving undertakings to an interested party prior to consideration of all the information relevant to a decision.

### 3.1.7 Reporting breaches

#### Code of Conduct breaches

Any person may make a complaint alleging a breach of the Code of Conduct.

Suspected breaches of the Code of Conduct by councillors, members of staff of council (excluding the general manager) or delegates should be reported to the general manager in writing. Allegations that the general manager has breached the Code of Conduct should be reported to the mayor in writing.

It is important that alleged Code of Conduct breaches are dealt with appropriately and in accordance with the prescribed procedures for doing so. Councillors must not therefore make allegations of suspected breaches of the Code at council meetings or in other public forums. To do so would constitute a breach of the Code of Conduct.

#### Pecuniary interest breaches

Complaints regarding non-disclosure of a pecuniary interest may be made by anyone to the Office of Local Government. These may be investigated and referred to the NSW Civil and Administrative Tribunal (NCAT) for decision. Significant penalties may apply to councillors who don't meet their obligations in this area.

#### Public Interest Disclosures

The *Public Interest Disclosures Act 1994* aims to encourage and facilitate the disclosure, in the public interest, of corrupt conduct, maladministration and serious and substantial waste in the public sector.

The purpose of this Act is to ensure that public officials who wish to make disclosures under the legislation receive protection from reprisals, and that matters raised in the disclosures are properly investigated.

### 3.1.8 Maintaining the integrity of the Code of Conduct

For a council's Code of Conduct to be effective, people need to have confidence in the integrity of the Code of Conduct, the processes for dealing with allegations of breaches and the outcomes. Certain types of conduct have the effect of undermining this confidence.

#### Examples of conduct of this type include:

- » publicly making allegations without reporting them so they can be properly and fairly considered in accordance with prescribed code of conduct processes
- » making complaints for political or improper purposes
- » leaking information about an investigation to embarrass someone or to attack the investigation process
- » taking reprisal action against the complainant or a person who has dealt with a complaint.

Where respect and confidence in a council's Code of Conduct is lost, it becomes difficult for a council to promote and enforce appropriate standards of conduct. This often results in a council becoming unable to govern itself and the loss of community confidence in the council.

For this reason, the Office of Local Government views conduct that undermines confidence in a council's Code of Conduct seriously. Such conduct would be in breach of the Code of Conduct. Under the prescribed procedures, councils are obliged to refer such conduct by councillors to the Office of Local Government. Such behaviour constitutes misconduct and may result in suspension for up to six months or disqualification from holding office for up to five years.

## 3.2 Councillors and public comment

It is common for councillors to be asked by journalists to comment on council policy or decisions.

There are certain protocols that councillors must follow when responding to the media on council policy or decisions.

Many councils have a policy which permits only the mayor, the general manager or the public officer to speak on behalf of the council. In such cases individual councillors remain free to make personal comments to the media but not to speak on council's behalf.

**When speaking publicly, councillors should ensure that they clarify whether or not they are acting on behalf of council and/or as an individual councillor.**

A level of qualified privilege applies to councillors under the law, which recognises that councillors may need to speak freely and publicly in the discharge of their civic duties.

However, this should be treated with caution. Qualified privilege covers only statements made at a council or committee meetings in the discharge of a councillor's duties which are pertinent to the business of local government. Such statements also need to be made in good faith and must not be made maliciously.

Councillors are subject to defamation law and it is contrary to law to injure another person's reputation in the eyes of society through the written word, pictorially or in speech.

If a councillor becomes aware of media interest in a particular aspect of council business that could be contentious, they should consider bringing it to the attention of the general manager.

**To help create a positive, safe and harmonious organisational culture, councillors should endeavour to work out any issues or differences of opinion privately, not publicly, and especially not through the media.**

Further information about the relationship between councillors and the media can be found in [Appendix 5—Dealing with the media](#).

# SECTION 4

## MAKING THE MOST OF MEETINGS

### 4.1 How councils debate and make decisions

**Council meetings are important because they are the mechanism through which councillors make decisions regarding policies and programs of the council to meet the needs of the community. Decisions of a council can only be made by resolution at a properly convened meeting.**

Councillors are expected to attend all council meetings and all meetings of any committee of which they are a member, unless leave is sought and approved. Councillors need to do a good deal of reading in preparation for meetings.

A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

As all council decisions are made on a majority basis, councillors need to understand the meeting process and the need to work as a team to get the best outcome for the community. For this, councillors need good communication skills to state their position as well as a willingness to listen to diverse views and compromise when necessary.

**The success of meetings depends on councillors working as a team, respecting diverse opinions and allowing all points of view to be heard. Meeting success also depends on following good meeting practices.**

### 4.2 How often council meetings are held and how they are conducted

**Council meetings must be conducted in accordance with the Local Government Act 1993 and Regulation, and council's Code of Meeting Practice, if it has one.**

How and when council meetings are held is up to each council to decide, although the *Local Government Act 1993* requires every council to meet at least 10 times a year, each time in a different month.

Some councils meet only once a month. Many larger councils meet more frequently because they have a higher volume of business. Councillors should be given at least three days' notice of regular meetings, unless there are extraordinary circumstances that make it important to have a more urgent meeting.

All formal council meetings must be held in accordance with requirements in the *Local Government Act 1993*, the *Local Government (General) Regulation 2005* (Regulation) and the council's Code of Meeting Practice, if it has one, and Code of Conduct.

This is because meeting procedures contribute to good public decision-making and increase council's transparency and accountability to its community.

The public has the right to see the agenda and business papers for each meeting, free of charge, and attend all council meetings and council committee meetings except in special circumstances outlined in the Act (see the section below on *closing meetings*).

## Role of the mayor or chairperson at meetings

The mayor is usually the chairperson unless he or she is absent or wishes otherwise. The chairperson maintains order at the meeting and keeps discussions to the point and to the agenda, amongst other things. This helps ensure meetings are conducted with decorum and decisions are made in an open, transparent way.

While councillors have one vote each, the chairperson has a casting vote if there is a split decision. Therefore, it is particularly important that the chairperson sees that the debate is conducted in a fair and orderly manner, regardless of his or her own views about the issue under discussion. The chairperson may exercise their second or 'casting' vote as he or she sees fit.

## Role of the general manager and staff at meetings

The general manager can attend council meetings but is not permitted to vote. However, the council may resolve to exclude the general manager from a meeting if it is dealing with matters relating to the general manager's employment or standard of performance.

Some councils also have other senior staff attend meetings for the purpose of answering any technical questions that arise out of the council's business papers. This can be an effective way of ensuring that councillors understand the issues before them.

The presence of council staff at meetings should not be used to raise matters that are not on the meeting agenda or that do not reasonably arise from the business papers. Such conduct does not promote a positive and healthy working relationship between the governing body and the administrative arm of council.

The Regulation allows questions to be put to council staff at meetings through the general manager. However, staff are entitled to reasonable

notice of the question and sufficient time to respond. A staff member is entitled to refuse to reply to a question. The chair of the meeting is expected to make sure these questions are put succinctly, directly and without debate.

## Quorum

There must be a quorum for a council meeting to take place (section 368 of the Act). A quorum is the majority of councillors who hold office at the time of the meeting and therefore does not include councillors who are suspended from office. For example, if a council has nine councillors then the quorum will be five councillors.

## Agendas

It is important that meetings only deal with matters listed on the agenda in the order in which they are listed. This allows councillors and members of the public to follow the items being debated and the decisions being made. If the order of the agenda is to be changed it should be done so by a resolution at the beginning of the meeting.

The Regulation requires that the only business to be transacted at a council meeting is the business that is already before the council, business that relates to a matter already before the council and business of which the required notice has been given.

A matter for which required notice has not been given can only be dealt with if a motion is passed to have the matter dealt with and the chairperson rules it is of great urgency.

## Motions

A motion is a proposal to be considered by council at a meeting. It is a request to do something or to express an opinion about something. A motion formally puts the subject of the motion as an item of business for the council.

The number of motions put forward by a councillor cannot be limited. As long as notice and other procedures are followed, a councillor can put forward as many motions as they wish.



When putting forward motions councillors need to balance their civic responsibility for representing the interests of the community with their obligation to use council's resources effectively and efficiently.

## Voting

In order to vote at a meeting a councillor must be present. There is no available mechanism for proxy voting.

If a councillor is present at a meeting during voting they are taken to have voted whether they intended to or not. Clause 251 of the Regulation states that a councillor who is present at a meeting but fails to vote is taken to have voted in the negative.

The only way for a councillor to abstain from voting is to leave the meeting.

## Closing meetings

All meetings of a council are open to the public unless they have been closed in the limited circumstances set out in Section 10A of the *Local Government Act 1993*. It is important that councillors familiarise themselves with the details of this section of the Act. This states that councils may only close their meetings to the public to consider:

- » personnel matters concerning individuals—this does not include matters relating to councillors
- » personal hardship of residents or ratepayers
- » commercial-in-confidence information
- » material which if disclosed would prejudice the maintenance of law
- » security matters
- » legal advice
- » information regarding items of Aboriginal significance
- » matters considered under the council's Code of Conduct.

Section 10B of the *Local Government Act 1993* further limits the powers given to a council by section 10A to close its meetings to the public.

Section 10B provides that a council meeting should only be closed to preserve the relevant confidentiality, privilege or security. In determining whether the discussion of a matter in an open meeting would be contrary to the public interest, embarrassment to the council, councillors or its employees is irrelevant.

Apart from the circumstances prescribed under section 10A in which it is permissible for councils to close their meetings, all other council decisions must be made in an open and transparent manner. This ensures transparency and accountability of council decision making and encourages community participation in the decision-making process.

Resolutions or recommendations made at a closed part of a council meeting must be made public by the chairperson of the meeting as soon as practical after the closed part of the meeting has ended. For example, the chairperson would read out the resolutions passed in the closed part of the meeting when the meeting is re-opened and the minutes of the ordinary meeting will record the words of the resolution passed in the closed part of the meeting.

A resolution or recommendation should be phrased in such a way as to protect any confidential detail. This allows the public to know what the council or committee has decided at the closed part of the meeting without revealing confidential information.

## The committee of the whole

When the rules of debate are suspended while a specific matter is debated, this is referred to as a 'committee of the whole'. Councils will

form a committee of the whole to overcome the limits on the number and duration of councillor speeches referred to in clause 250 of the *Local Government (General) Regulation 2005*.

For example, clause 250 states that a councillor must not speak on a matter for more than five minutes. If a council resolves to move into a committee of the whole to consider a matter, a councillor can speak for more than five minutes on that matter.

Moving into a committee of the whole does not close the meeting to the public. However, where a council closes part of a meeting under section 10A of the Act, the council may also move into committee of the whole if it wants to suspend the rules of debate for that part of the meeting.

Recommendations made by a committee of the whole should be put to the council meeting when the rules of debate are resumed, and included in the council's minutes.

In a closed meeting that has resolved into a committee of the whole, the committee's recommendations as well as the resolutions passed in the closed part of the council meeting must form part of the council's minutes of the meeting.

### Mayoral minutes

Clause 243(1) of the Regulation states that the mayor may put to a meeting, without notice, any matter which the council is allowed to deal with or which the council officially knows about. This covers any council function under the Act or other legislation, or any matter that has been brought to the council's attention, for example, by letter to the mayor or the general manager.

The mayor may move that a mayoral minute be adopted without the motion being seconded. Mayoral minutes should not be used to introduce, without notice, matters that need research or a lot of consideration by the councillors before coming to a decision. These types of matters

would be better placed on the agenda, with the usual period of notice being given to councillors.

## 4.3 Different types of council meetings

There are three main types of formal council meetings which must be conducted in accordance with the *Local Government Act 1993* and Regulation, and the Code of Meeting Practice, if a council has one:

### Ordinary council meetings

These meetings are the forum where the governing body conducts its core business. The general manager is responsible for giving each councillor and the public at least three days' notice of the time and place of each meeting as well as the agenda and business papers for that meeting.

It should be noted that if a councillor is absent from three or more consecutive ordinary meetings without leave, their office automatically becomes vacant.

**If a councillor is going to be absent from an ordinary meeting of council, that councillor must apply for a leave of absence. Merely offering or accepting an apology is not enough.**

### Extraordinary council meetings

Extraordinary meetings may be called on occasions to address business that cannot be postponed. Three days' notice is not required for these meetings if the meeting is called in an emergency (section 367 of the Act).

### Council committee meetings

In addition to council meetings, councils can establish committees to oversee specific functions, projects or programs and report back to the council on those matters. A council committee is one where all the members of the committee are councillors. The committee must be chaired by the mayor or a Chair elected from

its membership or by the council. The mayor does not have to be the Chair of the committee.

The meetings of council committees should also be conducted in accordance with the meeting rules prescribed under the Act and Regulation and council's Code of Meeting Practice, if the council has adopted one.

Each councillor, whether a member of a committee or not, is entitled to attend and speak at a meeting of a council committee. However, only councillors who are members of the committee are entitled to put business on the committee's agenda, move or second a motion at the committee meeting, or vote at the meeting.

### Code of Meeting Practice

Ordinary and extraordinary council meetings and meetings of committees comprising wholly of councillors must be conducted in accordance with the meeting rules prescribed under the Act and Regulation.

Councils may currently choose to adopt their own Code of Meeting Practice. This Code must incorporate the provisions of the Act and Regulation and may not be inconsistent with them (section 360 of the Act). If a council has adopted a Code of Meeting Practice, its meetings must comply with its provisions as well. A Code of Meeting Practice must be developed in consultation with the community and be made publicly available.

Recent amendments to the Act provide for the prescription of a model Code of Meeting Practice comprising of mandatory and non-mandatory provisions. When these amendments commence, all councils will be required to adopt a code of meeting practice that at least incorporates the mandatory provisions of the model meeting code.

### Other meeting types

The following meeting types may involve councillors but are not formal meetings. These meetings do not have to be conducted in

accordance with the meeting rules prescribed under the *Local Government Act 1993* and Regulation, and a council's adopted Code of Meeting Practice, if it has one:

#### Advisory committees

These differ from council committees and membership can include non-councillors. While the meeting procedures in the Act and the Regulation do not apply, good meeting protocols should be maintained. Councils should, at minimum, ensure that all committees meet basic accounting and governance standards, as appropriate.

#### Workshops or briefing sessions

Councils may hold workshops for the purpose of conducting in-depth discussions on certain topics. Formal decisions are not made at workshops but these sessions provide the time needed to explore more important or complex issues in detail. A workshop may involve councillors, council staff and invited participants.

Workshops should not be used for detailed or advanced discussions where agreement is reached and/or a de-facto decision is made. Any detailed discussion or exchange of views on an issue, and any policy decision from the options, should be left to the open forum of a formal council or committee meeting.

The Office of Local Government recognises the value of workshops or information sessions in developing councillor knowledge and expertise, and in assisting them to discharge their role as public officials. However, where briefing sessions are held in relation to development applications or business enterprises, a council needs to remember its obligations and responsibilities under its Code of Conduct, and community perceptions in terms of unfair advantage and transparency of process.

## 4.4 Other resources

### Office of Local Government – Meetings Practice Note No. 16

The Office of Local Government has issued *Meetings Practice Note No. 16* to help councils conduct their meetings appropriately. It is not designed to be a complete guide to meeting procedures but it does cover frequently asked questions.

Meeting procedures contribute to good public decision-making and increase council's transparency and accountability to its community. While legislation sets out certain procedures that must be followed in council and committee meetings, meeting procedures vary between councils. These differences usually reflect local cultural practices and priorities.

The Practice Note is a guide for councils, councillors and members of the public. It does not give legal advice. Councils may seek their own legal advice on any issues of concern.

A copy of the [Meetings Practice Note](#) is available on the Office's website at [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au).

### Office of Local Government—Guidelines on the Closure of Council Meetings to the Public

The Office of Local Government has also issued guidelines to assist councils to meet their statutory obligations when closing their meetings to the public.

The Office recognises there will be occasions where councils are required to consider information which, by its nature, is confidential and ought not to be publicly disclosed. The Act recognises that on such occasions, the public interest in protecting confidential information will outweigh the public interest in ensuring accountability through open meetings.

This publication offers practical guidance on how councils can appropriately weigh these competing public interests and ensure that they comply with their obligations under the Act when closing meetings to the public. They do this by addressing commonly asked questions that have been raised with the Office about the closure of council meetings and provide best practice examples.

These guidelines are also available on the Office of Local Government website.

### Other publications

Publications such as *Joske's Law and Procedures at Meetings in Australia* give general guidance on running meetings.

However, councillors should be mindful that such publications may provide information which is different to that outlined in this section.

Where such contradictions exist, the *Local Government Act 1993* and Regulation, and the council's Code of Meeting Practice should be followed.

# SECTION 5

## SOUND PLANNING AND REPORTING

**Planning decisions affect communities, the environment and quality of life and usually have long-lasting consequences.**

Councillors are involved in overseeing the development of, carrying out of and reporting on many council plans and activities.

Councils are responsible for different types of planning, including community strategic planning and land use planning. Some council plans and reports have strict legal requirements about what needs to be included in them and how and when a council needs to consult with its community during their development.

### 5.1 Community strategic planning

Community strategic planning is the process by which a council, with its community, establishes a vision for the future of the local government area, and develops goals, objectives, strategies and actions to achieve that future. To perform their role effectively, councillors need to actively participate in determining the strategic direction for the community and the planning process supporting it.

Councils develop a hierarchy of plans which fall out of the Community Strategic Plan, known as the Integrated Planning and Reporting framework. The Diagram below illustrates the framework:



Integrated Planning and Reporting Framework

The Integrated Planning and Reporting framework enables councils (with their communities) to ask and answer some key questions. The key planning questions include:

- » Where are we now?
- » Where do we want to be in the future?
- » How will we get there?
- » When will we know when we've arrived?

The key reporting questions include:

- » How much did we do?
- » How well did we do it?
- » Is anyone better off as a result? If not, why not?

The plans councils prepare under the Integrated Planning and Reporting framework must adequately address the quadruple bottom line:

- » social and community considerations
- » economic considerations
- » environmental considerations
- » civic leadership and governance considerations.

The plans must also prepare councils for a sustainable future, one that ensures that future generations aren't left with an unsustainable legacy as a result of irresponsible decisions made now.

The Integrated Planning and Reporting framework recognises that councils don't exist in isolation, but are part of a larger natural, social, economic and political environment that influences and shapes their future direction. Nor do council plans exist in isolation: land use and infrastructure planning has social, environmental and economic outcomes, and vice-versa.

The Integrated Planning and Reporting framework opens the way for councils and their communities to have important conversations about funding priorities, service levels, preserving local identity and planning in partnership for a more sustainable future.

## 5.1.1 An overview of the Integrated Planning and Reporting framework

### Integrated Planning and Reporting principles

The following principles for strategic planning apply to the development of the Integrated Planning and Reporting framework by councils under the *Local Government Act 1993* councils should:

- » councils should identify and prioritise key local community needs and aspirations and consider regional priorities
- » councils should identify strategic goals to meet those needs and aspirations
- » councils should develop activities, and prioritise actions, to work towards the strategic goals
- » councils should ensure that the strategic goals and activities to work towards them may be achieved within council resources.
- » councils should regularly review and evaluate progress towards achieving strategic goals
- » councils should maintain an integrated approach to planning, delivering, monitoring and reporting on strategic goals
- » councils should collaborate with others to maximise achievement of strategic goals
- » councils should manage risks to the local community or area or to the council effectively and proactively
- » councils should make appropriate evidence-based adaptations to meet changing needs and circumstances.

### Community Strategic Plan

The community strategic plan is the highest-level plan that a council will prepare.

The plan identifies the community's main priorities and aspirations for the future (at least 10 years), and plans strategies for achieving these goals.

While councils prepare community strategic plans on behalf of their communities, they are not wholly responsible for implementing the plan.

Other partners such as State agencies, community groups and business may also be engaged in delivering the long-term objectives of the plan.

The community strategic plan is reviewed and updated (or a new version is prepared) by each new council following its election to ensure it remains current and reflects contemporary local and regional priorities.

### **Community Engagement Strategy**

Councils must prepare and implement a community engagement strategy for engagement with the local community in the development and review of the community strategic plan and other plans, policies and programs (other than routine administrative matters). The community engagement strategy must be based on the social justice principles of access, equity, participation and rights.

As a result of recent amendments to the *Local Government Act 1993*, councils will soon be required to adopt a more broadly-based community engagement strategy for engagement with the local community when developing all of their plans, policies and programs and for the purpose of determining their activities other than routine administrative matters.

### **Delivery Program**

The delivery program translates the community strategic plan goals into actions. It is each newly-elected council's commitment to the community, outlining what it intends to do toward achieving the goals of the community strategic plan during its term of office.

It becomes the single point of reference for all principal activities undertaken by Council. All plans, projects, activities and funding allocations must be directly linked to the four-year delivery program.

### **Operational Plan**

The delivery program is supported by an annual operational plan. This document spells out the

details of the delivery program, identifying individual projects and activities that will be undertaken in that year to achieve the commitments of the delivery program.

The operational plan is supported by a detailed budget and a statement of revenue policy, which also sets the fees and charges for that year.

### **Resourcing Strategy**

The resourcing strategy resources the implementation of the community strategic plan, delivery program and operational plans. It consists of three components:

- » long-term financial planning (see 6.2.1 for further information)
- » workforce management planning
- » asset management planning (see 6.4.1 for further information).

### **Long-Term Financial Plan**

Each council must prepare a long-term financial plan (at least 10 years), which is used to inform decision-making during the development and review of the community strategic plan and the delivery program.

The long-term financial plan is updated annually as part of the development of the operational plan, and is reviewed in detail as part of the review of the community strategic plan following each local government election.

### **Workforce Management Strategy**

Each council must develop a workforce management strategy to address the human resourcing requirements of its delivery program.

The workforce management strategy therefore has a four-year minimum time frame.

### **Asset Management Planning**

Councils must account for and plan for all the existing assets it owns, and plan for any new asset solutions proposed in the community strategic plan or delivery program.

To achieve this, councils must prepare an asset management strategy, incorporating an asset management policy, as well as asset management plans for each class of assets under the council's control. The strategy and plans must have a minimum 10-year time frame.

Asset management plans must identify service standards, and contain long-term projections of asset maintenance, rehabilitation and replacement costs.

Councils must report on the condition of their assets in their annual financial statements, in line with the *Local Government Code of Accounting Practice and Financial Reporting*.

### Annual Report

The annual report is one of the key points of accountability between a council and its community.

It is not a report to the Office of Local Government or the NSW Government; it is a report to the community.

The annual report focuses on council's implementation of the delivery program and operational plan because these are the plans that are wholly the council's responsibility.

The report also includes some information that is prescribed by the *Local Government (General) Regulation 2005*. This information has been included in the Regulation because the NSW Government believes that it is important for community members to know about it—to help their understanding of how council has been performing both as a business entity and a community leader.

The annual report in the year of a local government election also includes a report as to the state of the environment in the local government area, specifically in relation to the objectives established for the environment by the community strategic plan.

An outgoing council will table a report at its final meeting, for inclusion in that year's annual report, which reports on the progress of implementing the community strategic plan.

The annual and end of term reports should each reflect the quadruple bottom line, including reporting on how effective the strategies have been in progressing the social and community, economic, environmental and civic leadership and governance objectives.

### 5.1.2 Roles and responsibilities of the mayor, councillors and general managers in strategic planning

**The success of the planning process relies heavily on the commitment of the mayor and the general manager as well as all councillors. Without strong support and commitment, the council will find it difficult to develop and implement a meaningful suite of plans.**

The Act prescribes specific responsibilities for the mayor, the governing bodies of councils, individual councillors and the general manager respectively in the development and implementation of councils' strategic plans and programs.

The mayor, as the leader of the council, is the public face of the planning process. The mayor is responsible for explaining the purpose of the community strategic plan to the community and for encouraging public support for the planning process.

The mayor is responsible for:

- » ensuring the timely development and adoption of the strategic plans and programs
- » promoting the effective and consistent implementation of the strategic plans and programs
- » promoting partnerships between the council and key stakeholders to deliver the council's strategic objectives



- » advising, consulting with and providing strategic direction to the general manager in relation to the implementation of the strategic plans.

**The governing body is responsible for:**

- » developing and endorsing the community strategic plan, delivery program and other strategic plans, programs, and strategies of the council
- » determining and adopting a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) and for the benefit of the local area, and
- » ensuring as far as possible that council acts in accordance with the plans, programs, and strategies of the council.

The ability of the mayor and councillors to capture a vision for the community's future, and to inspire others to participate in that future, will be fundamental to the success of the process.

It is important that all councillors support and are fully committed to the value of strategic planning. For this reason, each individual councillor has a statutory responsibility to participate in the development of the Integrated Planning and Reporting framework.

Similarly, the general manager has a pivotal role to play in mapping out the council's approach to the planning process and ensuring the community receives the information it needs to participate in a meaningful way.

The general manager will also be responsible for guiding the preparation of the community strategic plan and council's response to it via the delivery program.

She or he is responsible for implementing the delivery program and will report regularly (at least six-monthly) on progress and ensure that it becomes a living document with regular updates and reviews, as required.

The general manager's clear understanding of the planning process and the way the various components are integrated will be fundamental to its success.

The general manager has an important leadership role to play in ensuring that each member of council's staff understands how their particular work activity contributes to achieving the objectives of the community strategic plan and what is expected of them in delivering its outcomes.

### 5.1.3 Assessing strategic plans

One of the most important roles of the governing body of a council is to endorse strategic plans on behalf of its community.

As well as the community strategic plan, councils may prepare other strategic plans which are not required by legislation but which may assist in implementing the community strategic plan. These may include cultural plans, public health plans, economic development plans, environmental management plans and crime prevention plans.

In order to endorse strategic plans, councillors must be able to assess their appropriateness. Councillors should first be satisfied that the plan as a whole makes sense and that each part is logically supported with sound analyses and actions.

The questions in Section 2.4 *Effective decision-making* and in Section 6.2.1 *Long term financial planning* provide a starting point for councillors when assessing strategic plans. However, a framework such as the 'integrity model' may also assist councillors.

## 5.2 Land use planning

Land use planning refers to the long term development or conservation of an area and the establishment of a relationship between local objectives and regional goals.

### The integrity model asks the following questions:

- » **Comprehensibility:** Can you understand the plan and explain it to the community?
- » **Appropriateness:** Does the plan fit with the council's strategic direction and comply with its legislative and policy framework?
- » **Sustainability:** Are the assumptions underlying the plan valid and based on adequate financial, social and environmental analyses?
- » **Feasibility:** Is the council able to successfully respond to any challenges contained in the plan? Are council's resources sufficient to support the plan?
- » **Accountability:** Does the plan contain adequate performance measures so that management can report on the progress of the plan in a timely manner?

The NSW Department of Planning and Environment is responsible for the administration of the *Environmental Planning and Assessment Act 1979* (EPAA, EP&A Act), which provides the framework for development decisions made by local government in NSW.

The objects of this Act include encouraging "the proper management, development and conservation of natural and man-made resources" and ecologically sustainable development.

In May 2016, the Minister for Planning announced plans to update key areas of land-use planning policy that the NSW Government is looking to improve, including community participation, plan making and development controls, local development, State significant proposals, improving governance and review processes, enforcement and reporting and promoting good design.

These reforms recognise the crucial role that councils play in engaging their communities about long-term planning priorities. Enabling legislation is expected to be introduced into Parliament later in 2017.

Additionally, in August 2017, the Parliament passed legislation introducing mandatory Independent Hearing and Assessment Panels (IHAPs) for councils in metropolitan Sydney and Wollongong City Council. Other councils can continue to use IHAPS if they choose to.

These councils will be required to use IHAPs for assessing DAs between \$5 million and \$30 million in value, when there is a conflict of interest for the council or developer, or when they are of a sensitive nature. Local council staff will process applications under \$5 million, which will include most applications relating to individual houses or alterations to existing houses.

IHAPs will comprise four members: two expert members and one community representative, all chosen by the council, and a chair chosen by the Minister for Planning. The latter is an important anti-corruption measure and will ensure that the chair is appropriately qualified and independent.

The Government introduced these amendments with the intention of bringing additional expertise, transparency and integrity to the assessment of DAs at the local level, and giving communities and ratepayers greater certainty about planning decisions.

IHAP members will be required to adhere to a code of conduct covering matters such as conflicts of interest. Each panel will be accountable to its council, and the council will be required to provide regular reports to the Planning Secretary on the panel's activities.

The establishment of IHAPs is intended to allow councillors to focus on setting the vision and strategy for land use in their local government

area, reflecting the current needs and future aspirations of the local community. This strategic planning then provides the rationale and context for setting the development controls which panels will apply and enforce. This will allow the focus of planning in this State to shift from battles over individual DAs to strategic planning.

### **State Environmental Planning Policies & Local Environmental Plans**

The planning framework in NSW is based on Environmental Planning Instruments. These planning instruments include State Environmental Planning Policies (SEPPs) and Local Environmental Plans (LEPs). SEPP and LEP Instruments are statutory plans made in accordance with Part 3 of the EPPA.

They exist to guide and control development and land use in NSW. Generally, SEPPs specify planning controls for certain areas and certain types of development. SEPPs can also identify the particular development assessment system that must apply to particular types of developments and identify the type of environmental assessment required for developments.

The NSW Government introduced a Standard Instrument for LEPs as part of its ongoing reform of the State's planning system. Councils are able to add to the template to set out detailed local planning rules addressing local issues within their area. More detailed information about LEPs and the planning system for NSW can be found on the NSW Department of Planning and Environment's website at [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au).

All local councils in NSW are planning and consent authorities for the purposes of the EPPA. In this role they are responsible for the development of a standardised LEP for their local government area and any amendments made to those LEPs.

LEPs may be made for all or part of a local government area and they determine the development status and controls to apply to

any site within the area over which the LEPs have effect, and will guide and control planning decisions, through the establishment of zoning and relevant development controls.

LEPs provide a framework for the way land can be used in a particular area and are the main planning tool used to shape the future of communities and also ensure local development is done appropriately. Local councils develop and amend their LEPs in consultation with their local government communities and other relevant stakeholders.

LEPs and amending LEPs are made by following the planning proposal and Gateway Determination processes set out in the EP&A Act, which is administered by the Department of Planning and Environment.

### **Development Control Plans (DCPs)**

In addition to SEPPs and LEPs, local councils can adopt and implement development control plans (DCPs) in their local government areas. DCPs provide for more detailed planning and design guidelines and controls to support the objects of a council's LEP.

DCPs typically apply to specific types of development or specific areas of land, and provide detailed development guidelines and controls. DCPs outline controls and parameters for development proposals for these specific activities or areas.

DCPs are also prepared by councils in consultation with their local communities. DCPs provide a detailed guideline that illustrates the controls that apply to particular types of development or particular areas in a council's area. To be valid, DCPs must generally conform to the provisions of the relevant LEP. Similar requirements exist for public exhibition as for LEPs.

### **Councils may choose to develop DCPs in order to:**

- » identify development as advertised development, which then allows for notification of the proposal to adjoining owners/occupiers and notice being given in the local newspaper. Submissions on the proposal may then be made to the council prior to consideration of consent
- » provide additional notification requirements for certain types of developments
- » specify additional matters to be taken into account in making orders.

### **Environmental Impact Statements (EIS)**

A development application for a project, identified as a designated development under the Regulations or a planning instrument, must be accompanied by an environmental impact statement (EIS).

Such projects are usually in the nature of major works such as industrial facilities, extractive industries and the like. In such cases, public exhibition of the application and any accompanying information for at least 30 days is required.

Objections to the proposal may be taken to the NSW Land and Environment Court if consent is granted subsequent to public submissions being received and considered by council as part of the evaluation process. If consent is refused, the applicant may also appeal the decision of the council.

### **Conditions of consent**

A council may choose to allow a development subject to certain conditions. These conditions must generally be imposed for a planning purpose. They should be applied fairly, relate to the development and be reasonable. Conditions imposed in the consent are open to being tested by appeal to the NSW Land and Environment Court.

### **Regional strategic planning**

The NSW Department of Planning and Environment is rolling out Regional Plans outside of the Sydney Metropolitan area, which will provide an overarching planning framework for local councils in regional areas to apply through their LEPs.

Each regional plan will be overseen by a Coordinating and Monitoring Committee, which will be jointly chaired by the NSW Department of Planning and Environment and the relevant Joint Organisation of Councils.

### **Greater Sydney Commission**

The Greater Sydney Commission (GSC) was formed in 2015 to bring best practice planning and governance to Greater Sydney by integrating land use, transport and infrastructure planning and collaborating with State agencies, councils and the Australian Government.

The GSC comprises four Commissioners (including the Chief Commissioner) and six District Commissioners.

The GSC is developing District Plans for each of the six planning districts in consultation with local government and the broader community.

The GSC will also play a significant role in the operation of the Sydney Planning Panels, which will replace Joint Regional Planning Panels from July 2016.

## 5.2.2 Public land management

Councils have responsibilities under the *Local Government Act 1993* for the management of public land in their areas.

The Act defines public land as “any land (including a public reserve) vested in or under the control of the council”. However, public land does not include a road, Crown land, commons (as defined under the *Commons Management Act 1989*), land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or a regional park under the *National Parks and Wildlife Act 1974*.

Public land management is a complex area and council decisions relating to this issue can often be the subject of intense public interest and scrutiny. It is therefore important that councillors have an understanding of the area.

The Office of Local Government has prepared *Practice Note No.1—Public Land Management* to assist councils in their management of public land under the *Local Government Act 1993*. The Practice Note focuses on the requirements of the Act and related issues and covers areas such as the classification and reclassification of public land; plans of management; and leasing, licensing and the granting of other estates over community land.

A copy of the [Public Land Management Practice Note](#) can be downloaded from the Office of Local Government’s website: [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au).

### Management of Crown land

Crown land currently comprises approximately half of all land in NSW and is managed primarily by the NSW Department of Industry, Lands and Forestry Division.

The legislative framework under which crown land is managed in NSW has recently been significantly amended, implementing many of the recommendations of the Crown Lands Management Review process undertaken by the Government.

A key finding of the review was that the NSW Government should continue to manage land of State significance. However, land of local importance should be subject to local level decision-making and this is best achieved by transferring these lands to local councils.

The Crown Lands Management Act 2016 (the Act) and the Crown Lands Legislation Amendment Act 2017 have recently passed Parliament and the majority of the legislation will commence in early 2018.

The Department of Industry, Lands and Forestry Division will be conducting information sessions for councils to support the phase in of the new legislation. However, below is a summary of the key components of the framework affecting councils, as provided by the Department of Industry.

The new legislation allows land that is identified as being primarily land of local community value, for example local parks and sporting grounds, to be vested in councils.

The identification of land of local significance will be guided by local land criteria. It will also be detailed in regulations published later this year.

There are a number of safeguards associated with these legislative provisions.

- » The new Act explicitly requires council consent to any transfers. There will be no forced transfers of crown land to council ownership – it will be entirely voluntary and by agreement. Councils will have the opportunity to consider the values of the land, including any resourcing implications, before agreeing to any voluntary land transfers.
- » Any land subject to an undetermined Aboriginal land claim may only be vested in a local council with the consent of the claimant (either Local Aboriginal Land Council or the NSW Aboriginal Land Council).

- » The new Act allows for covenants to be placed on title to land. There may be circumstances where it is appropriate to put covenants on title to land that is vested in councils to restrict how the land is used and managed into the future. This will be considered on a case by case basis, as land is put forward for transfer of ownership, and will be subject to council agreement.

Once land is transferred, it is no longer crown land and is held by council in freehold. Any income generated by that land will then be retained by the council.

Importantly, the new legislation allows councils to manage crown land under the provisions of the Local Government Act 1993 (LGA) for public land. This is intended to reduce the duplication and drain on resources experienced by councils resulting from the current dual legislative frameworks, where some crown land has been managed under the LGA and some under the Crown Lands Act.

Crown reserves managed by councils will generally be classified as community land under the LGA and categorised under the LGA, with the Minister for Lands' approval.

With the Minister's consent, councils may seek to classify crown land which they manage as operational, where the land does not fall within the categories of community land under the LGA or where classification of the land as operational is required to allow the current land use to continue. This may be required in circumstances such as where crown land is being used for long term residential accommodation or cemeteries.

Generally, councils will not need the Minister for Lands and Forestry's approval for dealings on crown reserves. Instead, in most cases local councils will manage these reserves under the requirements for community land under the LGA.

The requirement under the LGA to have plans of management for each reserve will be phased in over time.

Additionally, financial assistance will be available to assist with the costs of preparing plans of management. To support the management and up-keep of reserves, councils will continue to be eligible to apply for grants from the Crown Reserves Improvement Fund (formerly the Public Reserve Management Fund Program).

### 5.3 Natural Resource Management (NRM)

Natural resource management (NRM) is the management of natural assets including vegetation, land, water and soil in a manner consistent with the principles of ecologically sustainable development. Councils make a significant contribution to the management and protection of natural resources in NSW.

Councils have a range of functions, powers and responsibilities that can influence NRM, on both private and public land. These include:

- » **strategic and statutory planning:** including settlement or land use strategies, land use zonings and provisions or clauses in LEPs/DCPs
- » **plans of management:** including mapping natural assets or hazards
- » **development assessment:** including conditions of consent and development contributions
- » **incentive programs:** including rate rebates, free tree giveaways and acquisition programs for environmentally significant lands
- » **on-ground works:** including site-based rehabilitation projects, tree planting/revegetation projects/bush regeneration, roadside vegetation management, noxious & environmental weed control, wetland and/or water body restoration, water quality monitoring and stormwater management and control

» **community engagement:** including information (brochures, website, and factsheets), community feedback, community focus groups, community standing advisory committees, and partnerships with local community groups.

Councils are encouraged to incorporate relevant national, State-wide and catchment priorities and targets into their land use and corporate planning processes in order to deliver an effective and coordinated approach to NRM.

In NSW, NRM is delivered on a regional basis through a variety of stakeholders, including all levels of government, Local Lands Services (which has replaced Catchment Management Authorities), Landcare, Bushcare and Coastcare Networks, landholders, and the general community.

Local lands services (LLS) work in partnership with local councils to ensure best practice management of natural resources, including weed management and pest control in areas under council jurisdiction.

LLS provide guidelines, training and incentive programs and assist councils with weed and pest management plans.

At a State level, Regional Plans are being rolled out by the NSW Department of Planning and Environment, which will provide an overarching planning framework for local councils in regional areas (except the Far West) to apply through their LEPs.

In the Sydney Metropolitan area, the overarching land use planning framework will be the six District Plans being developed by the Greater Sydney Commission in consultation with local government, and the broader community.

# SECTION 6

## FINANCIAL MANAGEMENT

**The responsibility and accountability for the financial management of a council rests with the governing body.**

Although councillors are responsible and accountable for the financial management of a council, councillors should not be involved in the detailed assessment of complex financial figures.

Rather, councillors are responsible for making strategic decisions in relation to the financial management of the council that determines or affects the types of services, level of services and the strategic direction of the council.

Councillors need to know:

- » How does council get revenue to support its operations?
- » Are there restrictions on how this money can be spent?
- » What activities does council fund?
- » What information is required to assess the financial health of council?

### 6.1 Principles of sound financial management

Governing bodies of councils have the following responsibilities in relation to the financial management of councils:

- » to ensure as far as possible the financial sustainability of the council
- » to determine and adopt a rating and revenue policy and operational plans that support the optimal allocation of the council's resources to implement the strategic plans (including the community strategic plan) and for the benefit of the local area
- » to keep under review the performance of the council, including service delivery.

The *Local Government Act 1993* prescribes principles of sound financial management. These are intended to guide councils in the exercise of these and other functions in a way that facilitates local communities that are strong, healthy and prosperous.

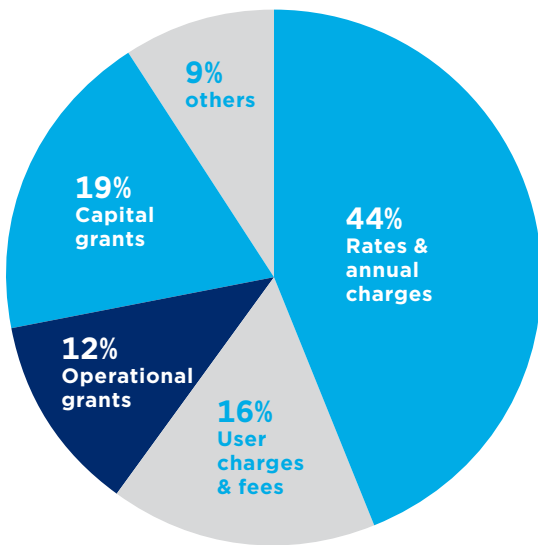
The following principles of sound financial management apply to councils:

- » Council spending should be responsible and sustainable, aligning general revenue and expenses.
- » Councils should invest in responsible and sustainable infrastructure for the benefit of the local community.
- » Councils should have effective financial and asset management, including sound policies and processes for the following:
  - > performance management and reporting
  - > asset maintenance and enhancement
  - > funding decisions
  - > risk management practices.
- » Councils should have regard to achieving intergenerational equity, including ensuring the following:
  - > policy decisions are made after considering their financial effects on future generations
  - > the current generation funds the cost of its services.



## 6.2 Sources of revenue

As discussed briefly in Section 1, councils obtain revenue from four main sources. These are rates and annual charges, user charges and fees, grants and other sources.



Sources of revenue for NSW Councils for 2014/15

### 6.2.1 Rates

Generally, a council's main source of revenue is from rates. Rates are local taxes that are levied on the basis of property values, issued by the Valuer General of NSW, within the local government area.

Growth in each council's total rates income is capped to a percentage each year roughly in line with inflation, which is announced by the Independent Pricing and Regulatory Tribunal (IPART).

Council staff will prepare the rates structure on this basis and it will form part of the revenue policy that the governing body will be required to approve.

### Special variations

The council may seek to increase the rates above the allowed percentage with IPART approval through an application for a Special Rates Variation under section 508(2) and 508A of the *Local Government Act 1993*.

**In considering the decision to apply for a special variation, councillors should consider the purpose of the special variation, the impact that the decision will have on the community and council's finances.**

The decision of a council to apply for a special variation should be a strategic decision and should be endorsed by the council prior to application.

Councils should also consider whether the decision fits with the strategic direction of the council and whether all the relevant materials and facts are available to make an informed decision.

When considering an application for a special variation, IPART takes into account issues such as how the variation will assist the council in meeting its long term strategic objectives, the level of community engagement undertaken by council about the proposal, the community's response to the proposal, and the financial position of the council.

### 6.2.2 Fees and charges

#### Annual charges

Under section 496 of the *Local Government Act 1993* a council must make and levy an annual charge for the provision of domestic waste management services for every parcel of rateable land for which the service is available.

Under section 496(a) and 496(b) of *Local Government Act 1993* a council may make and levy an annual charge for the stormwater management services and for the provision by the council of coastal protection services.

In addition, under section 501 councils can levy annual charges on each parcel of rateable land for water supply services, sewerage services, drainage services and waste management services. There is also scope to allow annual charges on other services prescribed by the *Local Government (General) Regulation 2005*.

## Fees

Councils can get additional income from fees for the use of publicly owned facilities like swimming pools, halls and other user-pays services. Fees can also be charged for giving information, supplying products or processing applications.

### Setting of fees and charges

The amount of fees and charges are set by the council each year through the approval of the revenue policy, contained in the operational plan, by the governing body of the council.

Fees and charges should generally be set at a level that reflects the cost to council of providing those services.

**A council cannot make and implement a rate or charge until: it has given public notice in its draft operational plan that it has considered any submissions on the draft operational plan and resolved to adopt the plan.**

## 6.2.3 Grants

Each year all councils receive a Financial Assistance Grant, which is paid by the Australian Government through the State Government's Grants Commission.

For 2016-17 the NSW Grants Commission will make recommendations on the distribution of an estimated \$712.09 million in grant entitlements to councils in NSW. The amount of the grant varies from council to council. The Financial Assistance Grant may be used for any council purposes.

Councils receive grants from other sources from time to time and may apply for specific grants for specific purposes or programmes. These grants are usually through the State and Australian Governments. For example, the NSW Roads and Maritime Services may make a grant for work on a particular road.

## 6.2.4 Other revenue sources

Other sources of income include interest on investments, contributions and any gains made from the sale of assets.

### Investments

Section 625 of the *Local Government Act 1993* allows councils to invest money that is not, for the time being, required by the council. Investments must be in line with the current Ministerial Investment Order and any guidelines issued by the Office of Local Government.

Each month an investment report must be presented at a council meeting by the responsible accounting officer (RAO). The RAO must take a 'prudent person approach' to investing council's money.

Given the responsibilities of the governing bodies of councils under the Act in relation to the oversight of the financial management of the councils, councillors should ensure that the council:

- » has an appropriate investment policy that guides the investment of ratepayers' funds in accordance with the council's charter
- » approves the investment policy by resolution
- » ensures that the policy is reviewed each year
- » ensures that there is open and transparent reporting of the council investments to council and ratepayers.

### Borrowings

Section 621 of the *Local Government Act 1993* allows council to borrow at any time for any purpose allowed. Borrowings can take the form of an overdraft or loan and a council may give security for borrowings. Councils are required to adhere to the Ministerial Borrowing Order when borrowing. The borrowings are set by the governing body of the council each year through the approval of the revenue policy, contained in the operational plan.

## 6.3 Financial planning

A council's operational plan contains its revenue policy, which sets out how a council plans to pay for its activities. It gives details of council's estimated income and expenditure for the next year; sets out the rates, charges and fees; outlines council's pricing policy; and announces proposed borrowings.

It is very important that councillors are aware of what they are approving when they adopt the revenue policy.

Councillors should encourage the general manager to recommend options for cost-effective service delivery and strategies for raising revenue. Similarly, councillors should make suggestions and ask the general manager to report on their viability.

### 6.3.1 Long term financial planning

A long term financial plan is an important part of council's strategic planning process. This is where long term community aspirations and goals are tested against financial realities.

The strategic planning and reporting system reinforces the importance of the long term financial plan as a key decision-making and problem-solving tool for councillors.

The modelling that occurs as part of the long term financial plan provides information for councillors to consider financial issues at an earlier stage and to gauge the effect of these issues in the longer term, when making financial decisions for the council.

The following is an overview of the long term financial planning component of the proposed strategic planning and reporting system:

#### **What are the general requirements for long term financial planning?**

- » Each council must prepare a long term financial plan.
- » The long term financial plan must be used to inform decision making during the finalisation of the Community Strategic Plan and the development of the Delivery Program.

#### **What is the minimum time frame for the long term financial plan?**

- » The long term financial plan must be for a minimum of 10 years.

#### **How often must the long term financial plan be reviewed?**

- » The long term financial plan must be updated at least annually as part of the development of the Operational Plan. The long term financial plan must be reviewed in detail as part of the four yearly review of the Community Strategic Plan.

#### **What is the basic structure of the long term financial plan?**

- » The long term financial plan must include:
  - » projected income and expenditure, balance sheet and cash flow statement
  - » service standards to be provided
  - » planning assumptions used to develop the plan
  - » sensitivity analysis—highlights factors/assumptions most likely to affect the plan
  - » financial modelling for different scenarios e.g. planned/optimistic/conservative
  - » methods of monitoring financial performance.

## 6.4 Allocation of revenue

While the general manager is accountable to the governing body for the council's financial performance, as members of the council's governing body councillors are accountable to the residents and ratepayers for the appropriate allocation of council monies.

In order to discharge this responsibility, it is essential that councillors receive adequate financial reports from the general manager so they can assess the financial health of council and ensure that finances have been properly accounted for.

Similarly, in making decisions and assessing the sustainability of the council, it is essential that councillors are provided with sufficient information to determine if the council can afford to undertake the activity, assess the cost-benefit of any proposed activity or project, and monitor that council activities and projects are being undertaken within budget.

### Key questions for councillors when assessing plans and projects

- » Is the strategy in the best interests of the community?
- » How does it address community wants and needs?
- » How does it fit with council's vision and goals?
- » What would be the impact of demographic, social or environmental change on the proposal?
- » Will the performance indicators contained in the proposal enable council to adequately monitor the progress of the plan and measure if it is achieving the desired outcome?
- » Does it provide value for money? Is the cost-benefit acceptable?

## 6.5 Asset management

**When making investment decisions about assets, councillors need to consider their full lifecycle cost, not simply the immediate construction/purchase price.**

An asset is defined as “a resource controlled by a council as a result of past events and from which future economic benefits are expected to flow to the council”.

NSW local government is the custodian of approximately \$89 billion of community infrastructure assets. These assets include roads, water and sewerage assets, drains, bridges, footpaths, public buildings, recreational facilities and parks and gardens. They enable councils to provide services to the community.

As custodians, councils are responsible for effectively accounting for and managing these assets and having regard to the long term and cumulative effects of their decisions.

The term 'asset management' describes the process for 'whole of life' asset management from planning, purchase, operation, maintenance to disposal of assets. It also encompasses integration of asset and service outcomes.

## 6.5.1 Asset management planning

**A strong and sustainable council requires a strong asset management planning process to ensure that its assets are managed in the most appropriate way to deliver the services that the community needs.**

**To ensure that this is achieved council's asset management planning must be integrated with all of its strategic planning processes.**

Asset management decisions should be informed by the evaluation of alternative means of service provision, full lifecycle costing, and performance measurement and monitoring.

Informed decision making recognises the long-lived character of infrastructure assets and the need to plan and budget for them on a full lifecycle basis beginning with the identification of a service need and the means to meet that need.

The strategic planning and reporting system reinforces the importance for councillors to consider all aspects of their council's services and programs when undertaking asset management planning. Asset management planning should not be done in isolation.

The following is an overview of the asset management planning component of the strategic planning and reporting system:

### **What are the general requirements for asset management planning?**

- » Each council must account for and plan for all of the existing assets under its ownership, and any new asset solutions proposed in its community strategic plan and delivery program.
- » Each council must prepare an asset management strategy and asset management plan/s to support the community strategic plan and delivery program.

### **What is the minimum time frame for the asset management strategy and plan/s?**

- » The asset management strategy and plan/s must be for a minimum time frame of 10 years.

### **What is the basic structure of the asset management strategy?**

- » The asset management strategy must include an overarching council endorsed asset management policy.
- » The asset management strategy must identify assets that are critical to the council's operations and outline risk management strategies for these assets.
- » The asset management strategy must include specific actions required to improve council's asset management capability and projected resource requirements and timeframes.

### **What is the basic structure of the asset management plan(s)?**

- » The asset management plan(s) must encompass all the assets under a council's control.
- » The asset management plan(s) must identify asset service standards.
- » The asset management plan(s) must contain long term projections of asset maintenance, rehabilitation and replacement costs.

### **How should councils assess the condition of their assets?**

- » Councils are encouraged to adopt the following five-category model for assessing the condition of their assets.

| Level | Condition | Description                           |
|-------|-----------|---------------------------------------|
| 1     | Excellent | No work required (normal maintenance) |
| 2     | Good      | Only minor work required              |
| 3     | Average   | Some work required                    |
| 4     | Poor      | Some renovation needed within 1 year  |
| 5     | Very poor | Urgent renovation/upgrading required. |

## Asset management condition assessment model

### What asset management reporting must councils do?

- » Councils are encouraged to use the five-category assessment model for reporting on the condition of their assets in their annual financial statements in line with the *Local Government Code of Accounting Practice and Financial Reporting*.

## 6.6 Capital expenditure

As councils are responsible for the prudent management of community resources, it is important that they undertake a capital expenditure review as part of their normal planning processes before committing to any major capital projects.

The council will need to consider the following before commencing any capital expenditure that is expected to cost in excess of 10 per cent of the council's annual ordinary rate or \$1 million, whichever is the greater (GST exclusive):

- » Is the need for the additional facilities identified in the council's delivery program and asset management strategy?
- » Capacity of council to conduct the project: does the Long-Term Financial Plan indicate financial capacity?
- » Priority of the project in relation to existing capital commitments and future works: does it achieve an objective of the community strategic plan?
- » Alternatives to the proposed works.
- » All financial implications of the project.
- » Community support for the project: does it achieve a desired community outcome?
- » Accountability for project through regular reporting to the council.

Councillors are required to vote on capital projects and they should make sure that they are satisfied that the above requirements have been reported adequately to enable them to make an informed decision.

In addition to the minimum requirements for capital expenditure projects, projects forecast to exceed \$10 million council will also be required to complete a:

- » business/management project plan
- » risk management plan
- » probity plan
- » tender evaluation.

For more information, councillors can read the [Capital Expenditure Projects Guidelines](#) on the Office of Local Government website: [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au).

Further information on effective decision making can be found in *Section 2—Roles, responsibilities and relationships*.

## 6.7 Financial reporting

Council's governing body should regularly receive a number of financial reports including:

- » budget: with a comparison to the actual results on a quarterly and yearly basis
- » forecasts: projections of council's financial position into the future
- » balance sheet: statement of financial position showing the current value of council's assets, e.g. cash, receivables (debtors), inventory (stock), any prepayments, and the current state of council's liability i.e. creditors, borrowings, provisions, and unearned income
- » profit and loss: statement of financial performance detailing council's income and expenses
- » cash flow: showing cash receipts and cash payments to enable councillors to assess council's ability to pay its debts as and when they fall due and as such is a good measure of council's solvency.

These reports might be accompanied by commentary advising the governing body of any exceptional or unexpected items and explaining any anomalies that might be evident in the reports, as well as ratio analysis of council's performance.

There are three types of ratios commonly used to analyse and assess financial performance:

1. Liquidity ratios that allow assessment of the organisation's ability to pay debts: current ratio and quick ratio.
2. Operating ratios that help assess efficient management of working capital and assets—'days debtors' and 'days creditors'—which respectively measure the number of days on average that accounts receivable are owing and the average time it takes to pay creditors.
3. Financing ratios that help in assessing comfortable use of liabilities compared with level of equity i.e. interest cover, debt to equity.

It is important that councillors are able to understand the financial reports presented to them in the council meeting papers so that they can properly monitor council's performance and discharge their responsibilities as members of council's governing body.

It is not sufficient for councillors to solely rely on the assurances of the staff.

While the general manager is accountable to the governing body for council's financial performance, councillors must feel appropriately informed and comfortable before signing off financial reports or agreeing to financial commitments.

Councillors must make sure that they ask enough questions to enable them to understand the financial situation of council. If the council's governing body feels that it has insufficient information on which to base a decision or monitor or assess a project or proposal it is important that the general manager is asked to provide further information.

**Important questions to ask when evaluating financial reports include:**

- » Are the council's results above or below the benchmarks?
- » Are the results improving or declining?
- » If they are declining:
  - » What are the reasons for this?
  - » What is council doing to improve this in the future? What does the long term financial plan show?

The financial ratios discussed above can provide councillors with valuable information to assist them in assessing one aspect of council's financial health.

The Office of Local Government has a number of benchmarks for various indicators that it uses to assess the financial health of councils.

## 6.8 Other financial management issues

### 6.8.1 Goods and Services Tax (GST)

Councils are required to submit a GST compliance certificate to the Office of Local Government every year.

The council is required to sign the GST compliance certificate for the period 1 July to 30 June and forward it to the Office of Local Government by 31 July each year. The statement is to be signed by the general manager and responsible accounting officer.

### 6.8.2 Formation of companies

Section 358 of the *Local Government Act 1993* allows for the formation of corporations and other entities by councils, but only with the Minister's consent.

An entity for the purposes of section 358 means any partnership, trust, joint venture, syndicate or other body (whether or not incorporated). It does not include any such entity that is of a class prescribed by the *Local Government (General) Regulation 2005* as not being within this definition. To date, the Regulation has not prescribed any class.

In applying for the Minister's consent under section 358, the council must demonstrate that the formation of, or the acquisition of the controlling interest in, the corporation or entity is in the public interest.



Applications are assessed by the Office of Local Government and referred to the Minister for approval. As part of the Office's assessment of a council's application, regard is given to the following:

- » Is the proposal consistent with the functions of the council or an existing service that the council provides? Councillors should ensure that the application is consistent with the functions of the council or an existing service that the council provides.
- » Will the proposed entity be legally separated from the council?
- » Is the council currently financially viable?

Further details on the formation of companies can be found on the Office of Local Government website at the link below:

<http://www.olg.nsw.gov.au/news/circular-07-49-criteria-applications-under-s358-formation-corporations-or-other-entities>

### 6.8.3 Public Private Partnerships (PPP)

A public-private partnership (PPP) is defined as an arrangement between a council and a private person for the purposes of providing infrastructure or facilities, or delivering services in accordance with the arrangement or both. Legislative provisions relating to PPP are set out in section 400B to 400N of the *Local Government Act 1993*.

A council must not enter into a PPP unless the council has provided the Office of Local Government with an assessment of the project to be carried out.

If the project is a significant project (defined as where the cost is more than \$50 million or council's contribution is more than 25 per cent of the council's annual revenue that is available for such projects) or if the Office of Local Government considers the project to have a high risk, the project will be referred to the Project Review Committee. The Minister may also refer any project to the Project Review Committee.

If their council is considering a PPP, councillors should consult the Office of Local Government's guidelines on the processes that councils are to follow. The [PPP guidelines](#) are available on the Office's website: [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au).

# Section 7

## SUPPORT FOR COUNCILLORS

### 7.1 Annual fees paid to councillors

Being a councillor is an important commitment to the local community but in NSW it is not a full time job. As such, councillors are not entitled to wages, workers compensation, sick pay etc.

However, under the *Local Government Act 1993* councillors are entitled to receive an annual fee for carrying out their duties. This is paid in monthly instalments in arrears.

The fee paid will depend on the size of the council, the number of people it serves and the assets it manages. A councillor in a small rural council will generally get paid less than a councillor in a big city council.

For 2016/17 the fees range from \$ 8,540 per year to \$ 37,640 per year. The mayor gets an additional fee for the additional duties he or she carries out.

The Local Government Remuneration Tribunal decides each year what councillor fees will be. Councils are not allowed to pay councillors more than the set councillor fee.

The fee is subject to tax, so councillors need to consider how it might affect their assessable income for tax purposes.

Councillors can request that they are paid below the fee fixed by the Tribunal if the full fee will adversely affect their entitlement to a pension, benefit or other allowance.

The Australian Tax Office (ATO) has made a definitive ruling (ATO ID 2007/205) that allows for councillors to redirect their annual fees into superannuation on a pre-tax basis. Councils need to determine for themselves, by council resolution and/or within an appropriate council policy, whether and how councillors may do this. Further information about this ruling can be obtained on the ATO's website: [www.ato.gov.au](http://www.ato.gov.au) or by calling 13 28 65.

A council may decide to reduce or withhold fees from a councillor if they do not attend meetings for more than three months. Councillors are not entitled to receive a fee if they are suspended from office.

Further information about fees can be found in the latest determination on fees from the Remuneration Tribunal, contact details for which are contained in [Appendix 2 - Key organisations](#).

Councillors are also encouraged to seek independent financial advice about issues relating to the fees they are paid.

## 7.2 Expenses and facilities

The *Local Government Act 1993* allows councils to cover some of the expenses that councillors incur in carrying out their duties. This includes training, travel and telephone expenses.

Councils must also provide some facilities to assist councillors to carry out their duties such as access to cars, computers, internet, fax machines, mobile phones, stationery or administrative assistance.

Councillors may only use the facilities provided to them for performing official duties. For example, a councillor cannot make personal calls from the mobile phone that the council gives them unless there is a mechanism for declaring and reimbursing private usage.

The range of expenses and facilities provided to councillors varies between councils. The council decides what expenses it will cover and what facilities it will provide as well as limits on these. This must be set out in a councillor expenses and facilities policy that is adopted at an open council meeting.

Council policies on the provision of expenses and facilities to councillors should ensure that councillors are not left out-of-pocket for performing their civic duties.

They should also ensure that expenses and facilities are reasonable, appropriate and provided in a transparent and accountable way.

There are guidelines about what councils can include in their policies. Councillor expenses covered by councils may include:

- » training courses
- » conferences
- » travel to and from meetings, conferences and training
- » accommodation, meals and refreshments
- » phone calls or internet use associated with councillor duties
- » the cost of providing care for children or other dependants while performing council duties
- » facilities such as mobile telephones, laptops, facsimile machines, stationery etc.

Councils are also encouraged to provide equipment and facilities to assist councillors with disabilities and special needs to access the services and information they need in order to perform their roles.

Further information about this issue can be found in the [Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW](#) available on the Office of Local Government's website: [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au).

Councillors should acquaint themselves with their council's councillor expenses and facilities policy.

## 7.3 Training and professional development

**The roles and responsibilities of councillors are wide and varied, and there is a lot to learn. Councils should identify the training needs of their councillors and ensure that they have access to ongoing training and professional development throughout their term.**

Under the Act, councillors have an obligation to make all reasonable efforts to acquire and maintain the skills necessary to perform their role.

It is the responsibility of individual councils to identify the training and professional development needs of councillors, and to plan and deliver this training.

The Office of Local Government and Local Government NSW also provide a wide range of support for councillors, including training and induction programs. Councillors have a responsibility to participate in the training and professional development opportunities offered to them.

### 7.3.1 Councils

As soon as possible after the elections councillors should be briefed by council staff on the key tasks to be undertaken by the new council at its first meeting.

All councils should prepare and deliver an induction program that introduces new councillors to the council, its main policies and protocols and key staff.

Individual councils are strongly encouraged to develop and implement induction and continuing professional development programs for councillors based on a systematic training needs analysis. The nature of these programs will vary from council to council, as the analysis will identify different needs.

New councillors are encouraged to tell their council about their personal training needs.

### 7.3.2 Office of Local Government

The Office of Local Government is implementing the Councillor Development Strategy to assist councillors. Elements of this strategy include:

- » “Hit the Ground Running” workshops delivered by the Office of Local Government. All councillors, including councillors who have served a previous term, are strongly encouraged to attend a councillor workshop after the local government elections
- » a guide to assist councils in the development of a council-based induction and ongoing professional development program.

### 7.3.3 Local Government NSW

As a service to their members, Local Government NSW provides professional development and training specifically catering to the needs of councillors. Local Government NSW’s Councillor Professional Development Program includes the following modules:

- » Community and Stakeholder Engagement
- » Chairing and Meeting Procedures
- » Elected Life—An Induction Program for Councillors
- » Executive Certificate for Elected Members
- » Financial Issues in Local Government
- » Good Governance Forum
- » Internal Audit
- » Know your Planning
- » Mayor’s Weekend Seminar
- » Media Skills
- » Model Code of Conduct
- » Preventing Bullying and Harassment

Local Government NSW also provides a free mentoring service for mayors and councillors. These mentors provide confidential advice to support councillors in their role as elected representatives.

Information on these programs can be obtained by contacting Local Government NSW via the contact details provided in Appendix 2.

#### **7.3.4 Local Government Professionals Australia (NSW)**

Local Government Professionals Australia, NSW is a leading association representing the professionals in NSW local government.

Local Government Professionals Australia, NSW helps to strengthen the professional capability of its members by providing access to resources and support through events, networks, training and council services. It provides Local Government Induction Online Training courses as well as eConnect, an on-line information portal covering strategic management information on integrated planning and reporting, long term financial planning, and strategic asset management and workforce planning.

## **7.4 Other information and resources**

New councillors may also benefit from establishing informal support networks and informal mentoring arrangements with more experienced councillors either in their council or in other councils. Many experienced councillors are often happy to mentor new councillors and share their knowledge and experience and provide advice.

Publications, such as *Bluett's Local Government Handbook NSW* by David Clark (17<sup>th</sup> edition, Lawbook Company, 2012) may also provide a handy reference for new councillors. It explains in detail how councils operate in NSW, their services and regulatory functions and gives an overview of relevant local government and planning laws. Many councillors have found it to be a valuable resource.

# APPENDICES

**APPENDIX 1** - SKILLS AND KNOWLEDGE CHECKLIST

**APPENDIX 2** - KEY ORGANISATIONS

**APPENDIX 3** - KEY LEGISLATION

**APPENDIX 4** - USEFUL RESOURCES

**APPENDIX 5** - DEALING WITH THE MEDIA

**APPENDIX 6** - TIPS FOR EFFECTIVE COMMUNITY ENGAGEMENT

**APPENDIX 7** - STANDARDS OF CONDUCT FOR COUNCIL OFFICIALS

# APPENDIX 1

## SKILLS AND KNOWLEDGE CHECKLIST

**The most important attribute for you to possess in your role as a councillor is a desire help people and meet the current and future needs of your local community as a whole.**

While you do not require any special formal qualifications to be a councillor, having or being able to develop certain skills, knowledge and attributes will help you to be effective in your role.

### Councillor Skills

You may wish to use this checklist to identify areas where you require training or assistance. However, it is also important to recognise that many of these skills can be learned and developed over time.

#### ✓ Good communication skills

This includes good listening and interpersonal skills, public speaking skills, the ability to accept alternative points of view as well as the ability to negotiate, mediate and resolve conflict.

#### ✓ Ability to engage with the community

Effective councillors inform residents about important local issues or council policies and seek their views. Councillors should also have an understanding of why this is important and the various ways to consult, such as through meetings, the media, the Internet, public forums, debates and surveys.

It is important for councillors to consult with as wide a cross-section of the community as possible. Developing networks within the local community can provide a sounding board against which the impact of council policies can be assessed.

#### ✓ Problem solving and analytical skills

This includes being able to get to the bottom of an issue and to think of different ways to resolve it, including advantages and disadvantages of each. It is also important for councillors to be able to think strategically and consider the long term impacts of council policies.

#### ✓ Teamwork skills

This includes being able to work with others in meetings and on committees, and being able to complete any tasks on time that councillors agree to do.

Other councillors can be a valuable resource. Assuming they are not also newly elected, other councillors will already have a good idea of the main issues in the area and should have contact with key groups and individuals. They can show new councillors the ropes and introduce them to useful people.

#### ✓ Organisational skills

This includes being able to plan and manage time, keep appointments and deadlines, make priorities and manage stress. Practical ways to do so include:

- » developing a filing system for paperwork and emails
- » learning to use existing council record keeping systems so as to prevent the duplication of information
- » prioritising what is needed to be read and responded to
- » having an effective diary management system

### ✓ Leadership qualities

This includes, for example, attributes such as energy and optimism, motivation, resilience, confidence, assertiveness, strategic thinking, advocacy, networking, active listening and negotiating.

### ✓ Working collaboratively

This includes understanding how to work with colleagues, organisations and the community to solve problems, gather resources and build alliances

### ✓ Ethical accountable behaviour

This includes being able to follow a code of conduct that involves, amongst other things, acting in the best interests of the community as a whole, transparent decision-making and accountability.

## Councillor knowledge

Effective councillors understand the broader local government picture. It is important that councillors understand the structure of their council and its responsibilities to the community. This handbook is a useful reference tool for building that knowledge.

You should also remember that specialist council staff can provide information and advice on a wide variety of issues, but this must happen through the general manager, except where he or she has authorised another council officer to undertake the role.

### ✓ Knowledge or understanding of strategic planning and financial reporting processes

This includes an understanding of the importance and role of strategic planning and a comprehensive understanding of budgets, the budgetary process and financial reports.

### ✓ Knowledge or understanding of social justice principles

This includes having an understanding of why it is important to make sure all people in the community are treated equitably, have the right to be heard and are able to participate in public forums and events if they choose to. Groups of people whose voices are not always heard include Aboriginal people, people with a disability, people from culturally and linguistically diverse backgrounds, older people, women and young people.

### ✓ Knowledge and understanding of local government functions

This includes, for example, land use planning, environmental management and community development and services.

### ✓ Understanding of relevant State Government legislation

This includes, for example, the *Local Government Act 1993* and the *Environmental Planning and Assessment Act 1979*. For further relevant legislation see [Appendix 2 - Key legislation](#).

To develop your skills, take the opportunity to attend the various training opportunities offered by your council, the Office of Local Government, Local Government NSW and other bodies.

This further development can be in the form of face-to-face training, conferences and seminars on councillor interest topics, industry webinars, and eLearning modules.



## TIPS FOR DEVELOPING SKILLS AND KNOWLEDGE

(adapted from: Improvement and Development Agency (I&DEA) UK - Councillor Guide 2011-12)

- » Talk to the mayor and other councillors.
- » Talk to the general manager.
- » Take up training courses offered by the council or other training bodies.
- » Read the council's strategic and operational plans to gain an overview of the council's agenda and priorities.
- » Learn how the council makes decisions and how you can influence these on behalf of the people you represent.
- » Take on new responsibilities with care—don't take on too much too soon.
- » Learn to manage the paperwork—learn what you need to read and what you don't, and don't hoard outdated or irrelevant material.
- » Set up a good filing system.
- » Concentrate on matters that interest you and learn them thoroughly.
- » Set up a schedule for visiting the key groups in your area over your first year—including faith groups, voluntary groups, major employers, schools, youth centres, tenants' and residents' associations.

# APPENDIX 2

## KEY ORGANISATIONS

Further information on local government can be obtained from the following organisations or their websites.

### OFFICE OF LOCAL GOVERNMENT

**Street address: (Nowra Office)**

Level 1, 5 O'Keefe Avenue  
NOWRA NSW 2541

**Postal address: (Nowra Office)**

Locked Bag 3015  
NOWRA NSW 2541

**Phone:** (02) 4428 4100

**TTY:** (02) 4428 4209

**Fax:** (02) 4428 4199

**Email:** [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

**Website:** [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)

### LOCAL GOVERNMENT NSW

**Street address:**

Level 8, 28 Margaret Street  
SYDNEY NSW 2000

**Postal Address:**

GPO Box 7003  
SYDNEY NSW 2001

**Phone:** (02) 9242 4000

**Email:** [lgsw@lgsw.org.au](mailto:lgsw@lgsw.org.au)

**Fax:** (02) 9242 4111

**Website:** [www.lgsw.org.au](http://www.lgsw.org.au)

### Councillor Professional Development Program:

**Phone:** (02) 9242 4181/4081

**Email:** [learning@lgsw.org.au](mailto:learning@lgsw.org.au)

**Fax:** (02) 9242 4188

**Website:** [www.lgsw.org.au](http://www.lgsw.org.au)

### LOCAL GOVERNMENT PROFESSIONALS AUSTRALIA, NSW

**Street/Postal address:**

Level 10, 22 Market Street  
SYDNEY NSW 2000

**Phone:** (02) 8297 1200

**Email:** [nsw@lgprofessionals.com.au](mailto:nsw@lgprofessionals.com.au)

**Fax:** (02) 9262 6705

**Website:** [www.lgprofessionals.com.au](http://www.lgprofessionals.com.au)

## UTS CENTRE FOR LOCAL GOVERNMENT

UTS Centre for Local Government  
(Part of UTS: Institute for Public Policy and Governance)

**Street address:**

Level 21, UTS Tower Building  
15 Broadway  
Ultimo NSW 2007

**Postal address:**

PO Box 123  
BROADWAY NSW 2007

**Phone:** (02) 9514 7884

**Email:** [clg@uts.edu.au](mailto:clg@uts.edu.au)

**Fax:** (02) 9514 2274

**Website:** [www.clg.uts.edu.au](http://www.clg.uts.edu.au)

The UTS Centre for Local Government (UTS:CLG) is an autonomous unit within the University of Technology, Sydney, and is part of the UTS Institute for Public Policy and Governance (UTS:IPPG). UTS:CLG was established in 1991 and promotes a cooperative approach to local government education, research and development. The Centre's activities are diverse and include professional development programs for local government personnel and associated professionals, research into various aspects of local government and governance, and international programs and projects.

## COUNCIL WEBSITES

Council website may be accessed by searching by the council's name, or via the website of the Local Government and Shires Associations (under 'Council websites') or from the Office of Local Government's website (under '[Local Government Directory](#)').

## INDEPENDENT COMMISSION AGAINST CORRUPTION

**Street address:**

Level 7, 255 Elizabeth Street  
SYDNEY NSW 2000

**Postal Address:**

GPO Box 500  
SYDNEY NSW 2001

**Phone:** (02) 8281 5999

**TTY:** (02) 8281 5773

**Email:** [icac@icac.nsw.gov.au](mailto:icac@icac.nsw.gov.au)

**Fax:** (02) 9264 5364

**Toll Free:** 1800 463 909

**Website:** [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au)

The Independent Commission Against Corruption (ICAC) was established by the *Independent Commission Against Corruption Act 1988* to promote the integrity and accountability of public administration in NSW by:

- » investigating, exposing and preventing corruption involving or affecting public authorities or public officials, and
- » educating public authorities, public officials and members of the public about corruption and its detrimental effects on public administration and on the community.

The ICAC is a public authority, but is independent of the government of the day, and accountable to the people of NSW through the NSW Parliament.

## NSW OMBUDSMAN

**Street address:**

Level 24, 580 George Street  
SYDNEY NSW 2000

**Postal Address:**

As for street address.

**Phone:** (02) 9286 1000

**TTY:** 1300 555 727 then ask for 02 9286 1000

**Email:** [nswombo@ombo.nsw.gov.au](mailto:nswombo@ombo.nsw.gov.au)

**Fax:** (02) 9283 2911

**Toll Free:** 1800 451 524

**Website:** [www.ombo.nsw.gov.au](http://www.ombo.nsw.gov.au)

The NSW Ombudsman is an independent and impartial watchdog whose job is to make sure that the agencies they watch over fulfil their functions properly and improve their delivery of services to the public. The Ombudsman helps agencies to be aware of their responsibilities to the public, to act reasonably and to comply with the law and best practice in administration. The Ombudsman is independent of the government of the day and accountable to the public through the NSW Parliament.

## NSW DEPARTMENT OF PLANNING AND ENVIRONMENT

**Street address:**

320 Pitt Street  
SYDNEY NSW 2000

**Postal address:**

GPO Box 39  
SYDNEY NSW 2001

**Toll Free:** 1300 305 695

**Email:** [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

**Website:** [www.planning.nsw.gov.au](http://www.planning.nsw.gov.au)

The Department of Planning and Environment is responsible for the administration of the *Environmental Planning and Assessment Act 1979* and the *Heritage Act 1977*.

## OFFICE OF ENVIRONMENT AND HERITAGE (OEH)

**Street address:**

Level 14, 59-61 Goulburn Street  
SYDNEY NSW 2000

**Postal address:**

PO Box A290  
SYDNEY SOUTH NSW 1232

**Phone:** (02) 9995 5000

**Email:** [info@environment.nsw.gov.au](mailto:info@environment.nsw.gov.au)

**Fax:** (02) 9995 5999

**Website:** [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

OEH is responsible for the administration of the *Protection of the Environment Operations Act 1997* and the *Waste Avoidance and Resource Recovery Act 2001*.

## ROADS AND MARITIME SERVICES (RMS)

**Street address:**

20-44 Ennis Road  
MILSONS POINT NSW 2061

**Postal address:**

Locked Bag 928  
NORTH SYDNEY NSW 2059

**Phone:** 131 782

**Fax:** (02) 8588 4105

**Website:** [www.rms.nsw.gov.au](http://www.rms.nsw.gov.au)

The RMS is responsible for the administration of the *Roads Act 1993* and the *Road Transport (Safety & Management) Act 1993*.

## DEPARTMENT OF PRIMARY INDUSTRIES (DPI)

**Street address:**

161 Kite Street  
ORANGE NSW 2800

**Postal address:**

Locked Bag 21  
ORANGE NSW 2800

**Phone:** (02) 6391 3100

**Fax:** (02) 6391 3336

**Website:** [www.dpi.nsw.gov.au](http://www.dpi.nsw.gov.au)

DPI is responsible for the administration of the *Noxious Weeds Act 1993*, *The Crown Lands Act 1989* and various other pieces of legislation relevant to local government.

## Other Key Bodies

### LOCAL GOVERNMENT GRANTS COMMISSION

**Postal address:**

Locked Bag 3015  
NOWRA NSW 2541

**Phone:** (02) 4428 4131

**Fax:** (02) 4428 4199

**Email:** [olg@olg.nsw.gov.au](mailto:olg@olg.nsw.gov.au)

**Website:** [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)

The primary function of the Local Government Grants Commission is to make recommendations to the Minister for Local Government on the allocation to local governing bodies in NSW of general-purpose grants under the provisions of the Commonwealth *Local Government (Financial Assistance) Act 1995*.

The Commission may also report on any matter referred to it by the Minister.

## LOCAL GOVERNMENT BOUNDARIES COMMISSION

**Postal address:**

PO Box R1772  
ROYAL EXCHANGE NSW 1225

**Phone:** (02) 9289 4000

**Fax:** (02) 9289 4099

**Email:** [boundaries@olg.nsw.gov.au](mailto:boundaries@olg.nsw.gov.au)

**Website:** [www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)

The Local Government Boundaries Commission is a statutory authority constituted under section 263 of the *Local Government Act 1993*. It has the function of examining and reporting on any matter referred to it by the Minister for Local Government regarding the boundaries of local government areas and the areas of operation of county councils. Section 263(3) specifies factors that the Boundaries Commission must have regard to when considering amalgamation or boundary alteration proposals.

## NSW CIVIL AND ADMINISTRATIVE TRIBUNAL (NCAT)

**Postal address:**

NCAT Occupational Division  
Level 10, John Maddison Tower  
86-90 Goulburn Street  
SYDNEY NSW 2000

PO Box K1026  
HAYMARKET NSW 1240

**Phone:** 1300 006 228

**Website:** [www.ncat.nsw.gov.au](http://www.ncat.nsw.gov.au)

NCAT was established on 1 January 2014 in response to the recommendations of the Legislative Council's Standing Committee on Law and Justice Inquiry into opportunities to consolidate tribunals in NSW. NCAT is empowered under the *Local Government Act 1993* to consider allegations of councillor misconduct and pecuniary interest breaches referred to it by the Office of Local Government. It is empowered to take disciplinary action against councillors with respect to such breaches including suspension from office and disqualification for up to five years.

## LOCAL GOVERNMENT REMUNERATION TRIBUNAL

**Postal address:**

Level 14, Bligh House  
4 - 6 Bligh Street  
SYDNEY NSW 2000

**Phone:** (02) 9272 6006

**Email:** [sarah.bradshaw@psc.nsw.gov.au](mailto:sarah.bradshaw@psc.nsw.gov.au)

**Website:** [www.remtribunals.nsw.gov.au](http://www.remtribunals.nsw.gov.au)

The Local Government Remuneration Tribunal is constituted under Chapter 9, Division 4 of the *Local Government Act 1993*. The member of the Tribunal is appointed by the Governor for up to three years and is assisted by two Assessors. It is responsible for categorising councils, county councils and mayoral offices to determine the range of annual fees to be paid to mayors, councillors, members of county councils and chairpersons in each category.

The Tribunal is required to make a determination by no later than 1 May each year and make a report to the Minister within 7 days of making that determination. The Report is to be published in the Government Gazette and also tabled in each House of Parliament.

## Greater Sydney Commission

**Postal address:**

PO Box 257  
PARRAMATTA NSW 2124

**Phone:** (02) 8289 6200

**Website:** [www.greater.sydney](http://www.greater.sydney)

The Greater Sydney Commission is constituted under the *Greater Sydney Commission Act 2015*. Its functions include to:

- » Advise and make recommendations to the Minister for Planning on matters relating to planning and development in the Greater Sydney Region
- » Report to the Minister on the implementation of plans or proposals relating to development in the Greater Sydney Region
- » Provide advice and make recommendations to the Minister on any impediments to plans or proposals relating to development in the Greater Sydney Region
- » Provide advice to the Minister on the application of any development fund created under section 129 of the *Environmental Planning and Assessment Act 1979*, relating to the acquisition of land in the Greater Sydney Region. This includes advice regarding the improvement of public open space, infrastructure and facilities at a regional or local level.
- » Assist local councils in the Greater Sydney Region, as well as state and Commonwealth agencies, to implement plans or proposals relating to development in the Greater Sydney Region.

# APPENDIX 3

## KEY LEGISLATION

### 1.1 Key Legislation

It is important that councillors have an understanding of the legislation under which councils have responsibilities. The following legislation falls within the portfolio responsibilities of the Minister for Local Government:

#### Local Government Act 1993

This is the primary piece of legislation governing councils and county councils in NSW. The purpose of the Act is to:

- » Provide the legal framework for the system of local government for New South Wales.
- » Set out the responsibilities and powers of councils, councillors and other persons and bodies that constitute the system of local government.
- » Provide for governing bodies of councils that are democratically elected.
- » Facilitate engagement with the local community by councils, councillors and other persons and bodies that constitute the system of local government.
- » Provide for a system of local government that is accountable to the community and that is sustainable, flexible and effective.

The *Local Government (General) Regulation 2005* supports the powers of councils under the Act.

Section 23A of the Act provides that the Chief Executive of the Office of Local Government may prepare, adopt or vary guidelines relating to the exercise by a council of any of its functions. A council must take any relevant guidelines issued under section 23A into consideration before exercising any of its functions.

The following guidelines have been issued by the Chief Executive or their delegate under section 23A:

- » [Model Asbestos Policy, November 2012](#)
- » [Guidelines for the Appointment and Oversight of General Managers, July 2011](#)

- » [Capital Expenditure Guidelines, December 2010](#)
- » [Internal Audit Guidelines, September 2010](#)
- » [Investment Policy Guidelines, May 2010](#)
- » [Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, October 2009](#)
- » [Tendering Guidelines for NSW Local Government, October 2009](#)
- » [Guidelines for Council When Notification of an Intention to Use Fireworks is Received, October 2008](#)
- » [Stormwater Management Service Charge Guidelines, July 2006](#)

#### Companion Animals Act 1998

The principal object of this Act is to provide councils with powers to ensure the effective and responsible care and management of companion animals (cats and dogs).

The Act also requires councils to promote awareness within its area of the requirements of this Act with respect to the ownership of companion animals, and to take such steps as are appropriate to ensure that it is notified or otherwise made aware of the existence of all dangerous and restricted dogs that are ordinarily kept within its area.

The *Companion Animals Regulation 2008* supports the powers of councils under the Act.

#### Swimming Pools Act 1992

This Act applies to swimming pools (both outdoor and indoor) that are situated, or proposed to be constructed or installed, on premises on which a residential building, a moveable dwelling or tourist and visitor accommodation is located. It does not apply to swimming pools that are situated, or proposed to be constructed or installed, on any premises occupied by the Crown or by a public authority.



The Act also provides the framework for swimming pool inspections, compliance and non-compliance certificates associated with swimming pool barriers.

The Act requires councils to take such steps as are appropriate to ensure that it is notified of the existence of all swimming pools to which the Act applies that are within its area. The Act also requires councils to promote awareness within their area of the requirements of this Act.

The *Swimming Pools Regulation 2008* supports the powers of councils under the Act.

### **Impounding Act 1993**

This Act empowers councils and other authorised persons to impound and deal with animals and articles in public places and places owned or under the control of certain public authorities if, in the case of animals, they are unattended or trespassing or, in the case of articles, they have been abandoned or left unattended. It also provides for the release of impounded animals and articles that are claimed by their owners, and for the disposal of impounded animals and articles that are not claimed by their owners and, if they are disposed of by sale, to provide for the disposal of the proceeds of sale.

The Act also allows councils and impounding authorities to 'opt in' to take impounding action against boat trailers parked for more than 28 days. In any area where the provisions are applied, boat trailers must move at least every 28 days at least as far as a different block section of the same street. A Council must provide notice of at least 15 days before impounding a trailer.

The *Impounding Regulation 2008* supports the powers of councils under the Act.

## **1.2 Other key legislation under which councils have responsibilities**

### ***Environmental Planning and Assessment Act 1979 (EPAA) - Minister for Planning***

Councils have a responsibility under the EPAA to encourage the proper management, development and conservation of natural and artificial resources for the purpose of promoting the social and economic welfare of the community and a better environment. The Act also requires councils to promote and co-ordinate the orderly and economic use and development of land.

Under the EPAA councils also have responsibility for:

- » consulting with relevant bodies in land use plan preparation
- » assessing and weighing the interests and demands of different sections of the community with those of the development applicant in the determination of planning policies and development applications
- » ensuring that Local Environmental Plans (LEPs) and development control decisions are related to the sound management of the environment and its resources
- » identifying local planning needs
- » developing policies addressing issues in the LEP
- » ensuring that responsibilities for Environmental Impact Assessment are met.

In May 2016, the Minister for Planning announced plans to update key areas of land-use planning policy that the Government is looking to improve, including: community participation, plan making and development controls, local development, State significant proposals, improving governance and review processes, enforcement and reporting and promoting good design.

Enabling legislation is expected to be introduced into Parliament later in 2016.

The *Environmental Planning and Assessment Regulation 2000* supports the powers of councils under the Act.

### **Protection of the Environment Operations Act 1997 (POEO) – Minister for the Environment**

This Act provides councils with powers to protect, restore and enhance the quality of the environment, while having regard to the need to maintain ecologically sustainable development. The POEO Act also provides increased opportunities for public involvement and participation in environment protection, and to rationalise, simplify and strengthen the regulatory framework for environment protection.

The Act also aims to reduce risks to human health and prevent the degradation of the environment by the use of mechanisms that promote pollution prevention and improve the monitoring and reporting of environmental quality on a regular basis.

The *Protection of the Environment Operations (General) Regulation 2009*, *Protection of the Environment Operations (Clean Air) Regulation 2010*, *Protection of the Environment Operations (Noise Control) Regulation 2008* and *Protection of the Environment Operations (Waste) Regulation 2005* support the powers of councils under the Act.

### **Waste Avoidance and Resource Recovery Act 2001 – Minister for the Environment**

This Act provides councils with powers to achieve integrated waste and resource management planning, programs and service delivery. The overall aim of the Act is to encourage the most efficient use of resources and to reduce environmental harm in accordance with the principles of ecologically sustainable development. The Act also aims to minimise the consumption of natural resources and the final disposal of waste by encouraging the avoidance of waste and the reuse and recycling of waste.

### **Threatened Species Conservation Act 1995 – Minister for the Environment**

This Act protects threatened species in NSW. It places significant obligations on local councils due to cognate provisions in the EPAA in relation to councils assessing impacts of development proposals on listed threatened species, populations and ecological communities and their habitats. The *Threatened Species Conservation Regulation 2010* and the *Threatened Species Conservation (Biodiversity Banking) Regulation 2008* support the powers of councils under the Act.

### **Noxious Weeds Act 1993 – Minister for Primary Industries**

This Act provides councils and county councils with powers to assist in reducing the negative impact of weeds on the economy, community and environment of NSW by establishing control mechanisms to prevent the establishment of significant new weeds, restrict the spread of existing significant weeds, and reduce the area of existing significant weeds. It also provides for the monitoring of and reporting on the effectiveness of the management of weeds.

The *Noxious Weeds Regulation 2008* supports the powers of councils and county councils under the Act.

The Biosecurity Act 2015 is due to commence in 2017 and this framework will replace the existing Noxious Weeds Act framework. For more details on this framework please refer to <http://www.dpi.nsw.gov.au/content/biosecurity/biosecurity-act-2015>.

### **Road Rules 2014- Minister for Roads, Maritime and Freight**

This is the primary piece of legislation relating to parking control, including signage and road markings.

### **Road Transport Act 2013 - Minister for Roads, Maritime and Freight**

This Act includes provisions for issue, service and payment of penalty notices; the liability of vehicle owners in relation to offences (including parking) and allows for the making of regulations regarding the parking of vehicles and parked or stopped vehicles on roads and road-related areas, including pay parking and parking offences.

### **Road Transport (General) Regulation 2013 - Minister for Roads, Maritime and Freight**

This Regulation provides for the use of pay parking schemes including meters, tickets and coupons, parking permits and mobility parking scheme authorities. It also gives councils the ability to reach agreement with other councils in relation to common pay parking schemes and pass a resolution in relation to fixed fees in accordance with guidelines set by the RMS.

The application of monies raised from parking may be applied by councils at its discretion, but it is also subject to the requirements of the Local Government Act 1993. The parking authority must also meet all costs associated with administering and maintaining a pay-parking scheme.

The offences relating to parking are also contained in this Regulation. The Regulation also defines different classes of persons as authorised persons within the meaning of the Local Government Act 1993 for the purposes of s679 of the LGA (Penalty notices for certain offences).

### **Roads Act 1993 - Minister for Roads, Maritime and Freight**

Local councils derive their powers as roads authority from the *Roads Act 1993*. In this capacity, they are responsible for the management of all public roads within their area, other than freeways, Crown roads or public roads controlled by another public authority, and private roads.

The *Roads Regulation 2008* supports the powers of councils under the Act.

### **Transport Administration Act 1988 - Minister for Roads, Maritime and Freight**

This Act includes the power to delegate functions of Roads and Maritime Services and powers to regulate traffic management and safety, including traffic control devices and special event parking schemes, as well as the interrelationship with laws relating to local government.

### **Multicultural NSW Act 2000 – Premier jointly with the Minister for Multiculturalism**

This legislation requires councils to implement the principles of multiculturalism. This is reinforced in the principles that apply to council decision making under the *Local Government Act 1993*. These require councils to recognise diverse local community needs and interests and to consider social justice principles when making decisions.

### **Coastal Management Act 2016 – Minister for Planning**

When proclaimed, this legislation will introduce a modern legal framework with the tools needed to plan for and protect the coast, while balancing property owners' rights with free public access to beaches. The Act will commence in late 2016 after further public consultation on the new Coastal State Environmental Planning Policy and maps of the coastal management areas is finalised.

A Coastal Management Manual will also be released by Office of Environment and Heritage to assist councils in managing the coast under the new Act.

## **1.3 Legislation under which councillors have personal responsibilities**

Councillors also have personal responsibilities to comply with the requirements of other Acts and Regulations. The following are only some of the legislation with which councillors must comply. The Local Government NSW can provide more detailed support to assist councillors meet their compliance obligations. Councillors should also seek advice and be guided by their general manager in compliance matters.

### **State Records Act 1998**

This Act regulates the manner in which councils are required to manage their records. All correspondence received by a council and councillors in their official capacity could be considered records under this legislation.

It is unlikely that correspondence to councillors about a councillor's personal affairs would be included in the definition of a record. However, correspondence to councillors from residents and ratepayers about the personal matters of the residents and ratepayers as they relate to a council's business may be included.

Councils should have policies in place for the good management of council's records to assist councillors comply with this legislation. Compliance with the State Records Act 1998 will also assist in complying with related legislation such as the Government Information (Public Access) Act 2009 and the Privacy and Personal Information Protection Act 1998.

The State Records Regulation 2010 prescribes councils as State collecting institutions in relation to private records in a local studies or similar collection.

## **Government Information (Public Access) Act 2009**

The *Government Information (Public Access) Act 2009* (the GIPA Act) establishes a proactive, more open approach to gaining access to government information. It:

- » authorises and encourages the proactive release of information by NSW public sector agencies including councils
- » gives members of the public a legally enforceable right to access government information
- » ensures that access to government information is restricted only when there is an overriding public interest against releasing that information.

The guiding principle of the GIPA Act is public interest. It is generally presumed that all government agencies will disclose or release information, unless there is an overriding public interest against doing so. Under the GIPA Act it is compulsory for agencies to provide information about their structure, functions and policies, and agencies are encouraged to proactively and informally release as much other information as possible.

An access application (also known as a formal application) should only need to be lodged as a last resort. Where access applications are needed, the GIPA Act outlines the process that applicants and agencies should follow, as well as the options for reviewing decisions about an access application.

## **Privacy and Personal Information Protection Act 1998**

The *Privacy and Personal Information Protection Act 1998* (PIIP Act) outlines how New South Wales public sector agencies including councils manage personal information.

The PIIP Act prescribes 12 Information Protection Principles. These are legal duties that describe what NSW public sector agencies (including councils) must do when they handle personal information. They detail how personal information must be collected, stored, used and disclosed as well as rights to access personal information.

## **Work Health and Safety Act 2011**

It is important that councillors ensure that they are familiar with the key provisions of the *Work Health and Safety Act 2011* (WHS Act). Councillors have the following duties under the WHS Act:

- » take reasonable care for their own health and safety
- » take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons
- » comply, so far as they are reasonably able, with any reasonable instruction that is given to them to ensure compliance with the WHS Act.

It is potentially an offence under the WHS Act to fail to comply with these duties.

Councillors must comply with the local WHS arrangements at council and have an WHS induction. Councils should have local policies dealing with arrangements for accessing workplaces and building sites.

## **Anti-Discrimination Act 1997**

This legislation prohibits discrimination against any person on the basis of their race, gender, disability, religious beliefs, age, marital status, sexuality and carer's responsibilities.

These obligations are also reflected in the Model Code of Conduct for Local Councils in NSW.

## 1.4 Further information about NSW legislation

The *Local Government Act 1993* and all other NSW Acts and regulations may be accessed on the website of the Parliamentary Counsel's Office at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au).

# APPENDIX 4

## USEFUL RESOURCES

### 1.1 Roles, responsibilities and relationships

#### » [Office of Local Government's Directory of Policy Advice for Councils](#)

This contains policy advice provided to councils by the office through circulars, guidelines and practices notes. It covers a variety of common topics and also includes answers to Frequently Asked Questions. It is aimed primarily at council staff, but may serve as a useful information tool for councillors.

#### 1.1.1 Personal responsibilities of councillors

##### » **Work Health and Safety Act 2011**

It is important that councillors ensure that they are familiar with the key provisions of the Work Health and Safety Act 2011 (the WHS Act). For more information about the WHS Act visit the [SafeWork](#) NSW Website.

##### » **Social justice**

As leaders of the community it is essential that councillors promote the social justice principles of equity, access, participation and rights for all people. This is consistent with the requirement in the *Local Government Act 1993* for councils' Community Strategic Plans and Community Engagement Strategies to be based on social justice principles.

To promote social justice councillors also need to be aware of and comply with personal responsibilities in relation to the following matters:

##### » **Anti-Discrimination**

[A Fact sheet for local government councillors - August 2011](#) is available to assist councillors to understand their responsibilities under anti-discrimination legislation. More detailed [Anti-Discrimination Guidelines for Local Councils - August 2011](#) have been prepared for councillors and council managers to assist councils comply with anti-discrimination legislation. These resources were prepared by the Anti-Discrimination Board in conjunction

with the Office of Local Government. For further information about the Anti-Discrimination Act 1997 visit the [Anti-Discrimination Board website](#).

##### » **Equal Employment Opportunity**

There are Equal Employment Opportunity (EEO) requirements specifically included in the Local Government Act 1993. For further information about EEO see the Department of Premier and Cabinet's [Equity and Diversity](#) webpage.

##### » **Principles of multiculturalism**

Councillors should also be aware of their council's responsibility to implement the principles of multiculturalism set out in the *Multicultural NSW Act 2000*. For further information about this Act see Multicultural NSW's website at [www.multicultural.nsw.gov.au](http://www.multicultural.nsw.gov.au).

##### » **Ecologically Sustainable Development**

The *Local Government Act 1993* states that council decision-making should consider the principles of ecologically sustainable development. This requires the integration of economic and environmental considerations in decision-making processes.

A number of principles underpin ecologically sustainable development and can be used to guide our decision making and actions. They include:

- » the precautionary principle
- » intergenerational equity
- » biodiversity and ecological diversity
- » improved economic valuation including environmental factors.

## 1.1.2 Relationships

- » [Criteria for applications under section 358 of the Local Government Act 1993 – Formation of corporations or other entities](#)

This circular sets out the criteria for applications by councils under section 358 of the *Local Government Act 1993* to obtain the consent of the Minister for Local Government to form a corporation or other entity.

## 1.1.3 Managing performance

- » **Local Government Professionals Australia, NSW resources:**

Local Government Professionals Australia, NSW produces a number of ‘health check’ documents which are available to councils who subscribe to these services. Councillors should check with their general manager to see if council has access to the following documents:

- » [Governance Health Check](#)

The Governance Health Check (GHC) is a self-audit guide to good governance in councils that was jointly developed by Local Government Professionals Australia, NSW and ICAC. It is designed to give councils a simple tool to identify key elements of corporate governance in a NSW local government context and to measure their progress in relation to each of these elements. The GHC is delivered through an online service called eConnect that councils can subscribe to.

- » [Sustainability Health Check](#)

The Sustainability Health Check can be used to provide a robust assessment of council performance and organisational systems and is compatible with the Governance Health Check.

## 1.1.4 Appointment of general manager and senior staff

- » [Standard Contract of Employment for General Managers of Local Councils in NSW](#) and [Standard Contract of Employment for Senior](#)

[Staff \(other than General Managers\) of Local Councils in NSW](#)—Office of Local Government

Standard contracts of employment were approved to ensure consistency and certainty in employment relationships at the management level in local government and reflect community expectations by providing greater transparency and accountability.

- » [Guidelines-for-the-Appointment-and-Oversight-of-General-Managers](#)—Office of Local Government

The purpose of these Guidelines is to assist councillors to be aware of their obligations under the *Local Government Act 1993* and the *Local Government (General) Regulation 2005* when recruiting, appointing, reappointing and overseeing general managers. It provides a summary of the essential matters that must be addressed by councils when engaging in these processes.

## 1.2 Code of Conduct and acting ethically

- » [Model Code of Conduct for Local Councils in NSW](#)—Office of Local Government

The Model Code of Conduct is prescribed under section 440 of the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*. It prescribes the ethical and behavioural standards that all council officials, (including councillors, staff, members of council committees and delegates of council) are required to comply with.

All councils are required to adopt a code of conduct that incorporates the provisions of the Model Code.

- » [Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW](#)—Office of Local Government

These procedures are prescribed for the purposes of the administration of the Model Code of Conduct for Local Councils in NSW.



They are made under section 440AA of the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*.

Section 440AA requires every council to adopt procedures for the administration of their code of conduct that incorporate the provisions of the Model Code Procedures.

- » [Pecuniary Interest Guidelines](#)—Office of Local Government

These guidelines assist councillors to comply with their obligations under the pecuniary interest provisions of the *Local Government Act 1993*.

- » [Self-Help Guide for the Completion of Returns Disclosing Interests of Councillors and Designated Persons Required Under Section 449 of the Local Government Act 1993](#)—Office of Local Government

This self-help guide has been developed to assist in completing the section 449 return of interests form in order to comply with the provisions of the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*.

## 1.3 Making the most of meetings

- » [Practice Note No. 16: Meetings](#)—Office of Local Government

This Practice Note was issued to provide guidance to councils on how to run their meetings. It is not meant to be a complete guide to meeting procedures, but it does include frequently asked questions.

- » [The Closure of Council Meetings to the Public](#)—Office of Local Government.

This publication provides guidance to assist councils to comply with the *Local Government Act 1993* when closing their meetings to the public.

## 1.4 Financial Management - Integrated Planning and Reporting

Further information about financial management, long-term financial planning and asset management can be found at the [Office of Local Government's Integrated Planning and Reporting](#) webpage. Local Government Professionals Australia, NSW also provides [e-connect](#), an on-line information portal covering strategic management information on integrated planning and reporting, long term financial planning and strategic asset management (check if your council subscribes).

## 1.5 Support for councillors

- » [Councillor Induction and Professional Development - A Guide for Councils](#)

The guide provides information to assist councils develop and implement councillor induction and continuing professional development programs, including their content. Councils are strongly encouraged to implement such programs.

- » [Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW 2009](#)—Office of Local Government

These guidelines assist councils review and prepare their policies on the payment of expenses and the provision of facilities for mayors and councillors.

# APPENDIX 5

## DEALING WITH THE MEDIA

The following information has been developed by Local Government NSW.

The Local Government NSW's Local Government Learning Solutions team also presents 'handling the media' and 'social media' training courses, which are highly recommended for both new councillors and as a refresher for returning councillors.

### Dealing with the media

Media regularly contact councils for comment on local issues, and councils rely on media to promote upcoming events and projects, and to voice their views on certain issues.

The media and councils need each other, but it is a sensitive relationship fraught with risk.

Most councils have media guidelines and the mayor is often the official spokesperson.

There are, however instances where a councillor is best placed to comment— either because the mayor isn't available, or it is an issue of particular interest/expertise to the councillor.

Below are some tips on getting the most out of the media and avoiding the pitfalls.

### General

- ✓ Be accessible and responsive – journalists are simply doing their job and are the gateway to communicating council views, events and projects.
- ✓ Follow council policies and guidelines on media contact.
- ! Nothing is really 'off the record' so be prepared for everything you say to a journalist to be used.
- ! Only say 'no comment' if you have a reasonable excuse (like the issue is in court). It is better to provide a general statement than nothing at all.
- ! Stick to matters of official council business— avoid personal comments about other issues and individuals.

### If you are approached for an interview

- ✓ Know your subject and have an understanding of the likely questions and angle of the journalist's story.
- ✓ Ask yourself who the audience is and what you want to communicate to them.
- ✓ Devise a set of key messages that are short and precise and get your messages across.
- ✓ Practice! Even the most seasoned media performers have to prepare to get it right.
- ✓ If you don't know the answer to a question, do not make something up or guess. Simply say "I will have to get back to you", "I'll have to confirm" or repeat one of your key messages.
- ✓ Don't be afraid to pause while you think of the correct, and best, answer.
- ✓ Don't be persuaded to say something that isn't true, isn't your view or isn't appropriate for you to comment on.

## For TV

- ✗ Avoid wearing dark or very bold colours – keep your outfit simple.
- ✗ No sunglasses!
- ✗ Don't fidget or shift your eyes.
- ✓ Keep your sentences short and sharp.
- ✓ Don't be afraid to show passion or some emotion, but control it.
- ✓ Repeat your key messages as much as possible.

## Press releases

- ✓ Keep them to one page.
- ✓ Make the heading catchy and interesting.
- ✓ Make sure the first sentence captures the most newsworthy information.
- ✓ Keep sentences and paragraphs short and to the point.
- ✓ Make sure there are contact numbers for further comment at the bottom of the release.
- ✓ Ensure that spelling and grammar are accurate.

## Social media

Most councils now use Twitter, Facebook®, LinkedIn®, Pinterest® and other social media to engage local communities. As an elected member you will need to find out what social media policies and guidelines exist for your council, and apply them accordingly.

[\*Connected Councillors\*](#) (Local Government Group, UK 2011) is a general guide for councillors in the United Kingdom and sets out the benefits of social media to support local leadership, how to get started using social media and on-line etiquette.

# APPENDIX 6

## TIPS FOR EFFECTIVE COMMUNITY ENGAGEMENT

The following checklist has been adapted from the NSW Government Regional Communities Consultative Council's *A summary guide to consulting with rural and regional communities*.

---

|  |   |
|--|---|
| <b>Identify the issue</b>                                | <ul style="list-style-type: none"><li>» What is the nature of the issue?</li><li>» What needs to be discussed?</li><li>» What are the possible options or contentious issues?</li></ul>   |
| <b>Identify the objective of the engagement activity</b> | <ul style="list-style-type: none"><li>» What are you aiming to achieve?</li><li>» Why are you talking to the community?</li><li>» What information do you need to find out?</li></ul>   |
| <b>Identify who you need to talk to</b>                  | <ul style="list-style-type: none"><li>» Who is affected by the issue?</li><li>» Can target groups be identified?</li><li>» What are the particular needs of different groups?</li><li>» What particular activities should be included to ensure that all relevant stakeholders are able to be included (e.g. Aboriginal community members, young people, families, and people with disabilities)?</li></ul> |
| <b>What techniques will be needed</b>                    | <ul style="list-style-type: none"><li>» Are the techniques appropriate for the audience?</li><li>» What other methods could be utilised to reach the target audience?</li></ul>   |
| <b>Allocate sufficient resources to the process</b>      | <ul style="list-style-type: none"><li>» Would a neutral facilitator assist?</li><li>» Is consensus decision making a goal?</li><li>» Has sufficient time been allocated to the engagement activity?</li></ul>   |
| <b>Involve participants in the process</b>               | <ul style="list-style-type: none"><li>» Has sufficient information been provided to participants to enable informed participation?</li><li>» Is written information concise and jargon free?</li><li>» Are there appropriate aids to assist communication (e.g. interpreters and hearing loops), are special interests respected, and is the process understood?</li></ul>                                  |

---

---

**Maximise the ability of the community to participate**

- » What are the most appropriate methods to contact participants?
- » Is the activity resourced sufficiently to take into account distance, travel time etc.?
- » Is the location appropriate for the participants (not just the council)?
- » Is childcare, aged care and disabled access provided?
- » Has adequate notice been given?
- » Have participants been encouraged to participate through personal contact?
- » Have cultural protocols been observed (eg: welcome to country)?
- » Can the expenses of low income participants be met?
- » Is a meeting the best way to achieve the desired outcome?

---

**Realistic timetables**

- » Is the community engagement activity a one-off or ongoing?
- » Is the timetable practical and realistic?
- » What are the time barriers and what strategies are in place if they cannot be met to the community's satisfaction?

---

**Resource management**

- » What resources are needed?
- » Is training or are external personnel needed?
- » Are existing community resources being used?
- » Can this engagement activity or meeting be undertaken within an existing community meeting process?

---

**Outcomes**

- » Are the desired outcomes clear to everyone?
- » Are the outcomes agreed?
- » How will the outcomes be documented?
- » How will the information be used?
- » How will decisions be reached?
- » How will the community be informed of the outcomes?

---

**Evaluation**

- » How will success be defined and measured?
  - » How can the community participate in the evaluation process?
  - » How is the evaluation recorded?
  - » How are the results of the evaluation provided back to the community participants and wider community?
-

# APPENDIX 7

## STANDARDS OF CONDUCT FOR COUNCIL OFFICIALS

Council officials play a vital role in serving local communities.

To do this effectively you will want to uphold the highest standards of behaviour to ensure the public has trust and confidence in local government.

### What are the expected standards of behaviour?

The following standards of behaviour are expected of council officials. You must:

- » not conduct yourself in a manner that is likely to bring the council into disrepute
- » act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions
- » treat others with respect at all times
- » consider issues consistently, promptly and fairly
- » not harass, discriminate against, or support others who do so
- » ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly
- » not participate in binding caucus votes
- » disclose and appropriately manage any conflict of interests
- » disclose and appropriately manage conflicts of interest arising from reportable political donations
- » not accept money or gifts of value and avoid situations that give rise to the appearance of securing favourable treatment
- » in the case of councillors, not direct council staff or influence staff in the exercise of their role
- » in the case of staff, ensure efficient and effective operation of the council's organisation and ensure the implementation of the decisions of the council without delay
- » use and secure information appropriately and do not disclose confidential information

- » use council resources ethically, effectively, efficiently and carefully in the course of official duties
- » not make complaints improperly, take detrimental action in response to complaints about standards of behaviour or disclose information about code of conduct matters.

Council officials include councillors, members of staff of council, administrators, members of council committees, conduct reviewers and delegates of council.

These standards are described in detail in the Model Code of Conduct for Local Councils in NSW. The code is a legal document that all officials are obliged to understand and follow. The Model Code forms the basis of each council's own Code of Conduct.

### What happens if the standards are not met?

In the very small number of cases where council officials fail to follow this code, this will be dealt with in accordance with the procedure for administration of the Model Code.

Complaints about a breach of these standards by anyone other than the general manager are to be made at first instance to general manager. Complaints about the general manager are to be made to the mayor. Non-serious complaints will be resolved informally. Where the complaint cannot be resolved informally, a complaint may be formally investigated by an independent conduct reviewer.

Breaches of these standards by delegates or council committee members may result in the following action:

- » censure
- » requirement of apology
- » prosecution
- » removal or restriction of delegation.

Breaches by council staff may result in disciplinary action, termination or such other penalty permitted under the relevant industrial award.

Breaches by the general manager may result in the following action:

- » requirement for training
- » counselling
- » requirement for apology
- » findings of inappropriate conduct made public
- » action under the general manager's contract.

Breaches by councillors may result in the following action:

- » requirement for training
- » counselling
- » requirement for apology
- » findings of inappropriate conduct made public
- » censure
- » referral to the Office of Local Government for disciplinary action including but not limited to suspension for up to three months
- » referral by the Office of Local Government to the NCAT for suspension of up to six months or disqualification from holding civic office
- » automatic disqualification for five years on a third suspension for misconduct.







Office of  
Local Government

---

[www.olg.nsw.gov.au](http://www.olg.nsw.gov.au)