



AGENDA

ORDINARY COUNCIL MEETING

4 MAY 2021

MEMBERSHIP: Councillors J Diffey, V Etheridge, D Grant, D Gumley, A Jones, S Lawrence, G Mohr, K Parker, J Ryan and B Shields.

The meeting is scheduled to commence at 5.30pm.

PRAYER:

O God, Grant that by the knowledge of thy will, all we may resolve shall work together for good, we pray through Jesus Christ our Lord. Amen!

ACKNOWLEDGEMENT OF COUNTRY:

"I would like to acknowledge the Wiradjuri People who are the Traditional Custodians of the Land. I would also like to pay respect to the Elders both past and present of the Wiradjuri Nation and extend that respect to other Aboriginal peoples from other nations who are present".

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- CCL21/87 COMMENTS AND MATTERS OF URGENCY (ID21/703)**
- CCL21/88 COMMITTEE OF THE WHOLE (ID21/714)**



Confirmation of Minutes

Confirmation of the minutes of the proceedings of the Ordinary Council meeting held on 26 April 2021.

RECOMMENDATION

That the minutes of the proceedings of the Dubbo Regional Council at the Ordinary Council meeting held on 26 April 2021 comprising pages 4, 5, 6, 7, 8, 8, 10, 11 and 12 of the series be taken as read, confirmed as correct minutes and signed by the Mayor and the Chief Executive Officer.

Appendices:

- 1 [↓](#) Minutes - Ordinary Council Meeting - 26/04/2021
- 2 [↓](#) Minutes - Committee of the Whole - 26/04/2021



REPORT

ORDINARY COUNCIL MEETING

26 APRIL 2021

PRESENT: Councillors J Diffey, V Etheridge, A Jones, S Lawrence, K Parker and J Ryan.

ALSO IN ATTENDANCE:

The Chief Executive Officer, the Governance and Internal Control Manager, the Executive Officer Organisational Performance, the Community Support Officer, the Communications Partner, the Director Organisational Performance, the Chief Financial Officer, the Director Culture and Economy, the Director Infrastructure, the Director Development and Environment, the Manager Growth Planning, the Growth Planner and the Director Liveability.

Councillor S Lawrence assumed chairmanship of the meeting.

The proceedings of the meeting commenced at 5:31pm at the Dubbo Civic Administration Building, Council Chamber, with a prayer for Divine Guidance to the Council in its deliberations and activities. The acknowledgement of country was also read by Councillor J Ryan.

CCL21/60 CONFIRMATION OF MINUTES (ID21/588)

Confirmation of the minutes of the proceedings of the Ordinary Council meeting held on 19 April 2021.

Moved by Councillor A Jones and seconded by Councillor V Etheridge

MOTION

That the minutes of the proceedings of the Dubbo Regional Council at the Ordinary Council meeting held on 19 April 2021 comprising pages 5, 6, 7, 8 and 9 of the series be taken as read, confirmed as correct minutes and signed by the Mayor and the Chief Executive Officer.

CARRIED

CCL21/61 LEAVE OF ABSENCE (ID21/589)

Requests for leave of absence were received from Councillors D Grant, D Gumley and G Mohr who were absent from the meeting due to personal reasons, whilst Councillor B Shields was previously granted leave of absence from this meeting by Council (refer Clause CCL21/53).

Moved by Councillor K Parker and seconded by Councillor J Ryan

MOTION

That such requests for Leave of Absence be accepted and Councillors D Grant, D Gumley and G Mohr be granted leave of absence from this meeting, whilst Councillor B Shields was previously granted leave of absence from this meeting by Council (refer Clause CCL21/53).

CARRIED

CCL21/62 PUBLIC FORUM (ID21/592)

There were no speakers during Public Forum.

MAYORAL MINUTES:**CCL21/62a PAYMENT OF EXPENSES AND PROVISION OF FACILITIES FOR THE MAYOR AND COUNCILLORS**

The Council had before it the Mayoral Minute regarding Payment of Expenses and Provision of Facilities for the Mayor and Councillors.

Moved by Councillor S Lawrence and seconded by Councillor J Ryan

MOTION

1. That the Policy for the Payment of Expenses and Provision of Facilities for the Mayor and Councillors be amended to provide that if a Councillor or the Mayor is or has been granted a leave of absence of one month or longer they are to return any car, phone or iPad provided by Council until the expiration of their leave of absence.
2. That in accordance with Section 253(3) that council determine that the proposed amendment is not considered substantial and can therefore be adopted without the need to go onto public exhibition.

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Moved by Councillor K Parker and seconded by Councillor A Jones

AMENDMENT

1. **That the Policy for the Payment of Expenses and Provision of Facilities for the Mayor and Councillors be amended to provide that if a Councillor or the Mayor is or has been granted a leave of absence in excess of one month they are to return any car, phone or iPad provided by Council until the expiration of their leave of absence.**
2. **That in accordance with Section 253(3) that council determine that the proposed**

amendment is not considered substantial and can therefore be adopted without the need to go onto public exhibition.

The amendment on being put to the meeting was carried.

CARRIED

The amendment then became the motion and on being put to the meeting was carried.

CARRIED

CCL21/62b CORONIAL INQUIRY INTO THE DEATH OF MARK FINLAYSON

The Council had before it the Mayoral Minute regarding Coronial inquiry into the death of Mark Finlayson.

Moved by Councillor S Lawrence and seconded by Councillor J Ryan

MOTION

1. That council supports a public coronial inquiry into the death of Mark Finlayson and authorises the Acting Mayor to correspond with the relevant authorities to express that support formally.
2. That the CEO provide a confidential report to the 4 May 2021 Ordinary meeting of Council on Thea Finlayson's request for documents.

CARRIED

CCL21/62c CONFIDENTIAL MATTER

The Council had before it the Mayoral Minute regarding Confidential Matter.

Moved by Councillor S Lawrence

MOTION

That the Council determine a verbal report by the CEO in Committee of the Whole.

CARRIED

MATTERS CONSIDERED BY COMMITTEES:

CCL21/63 REPORT OF THE DUBBO REGIONAL COUNCIL SOLAR AND WIND FARM CONSULTATIVE COMMITTEE - MEETING 6 APRIL 2021 (ID21/593)

The Council had before it the report of the Dubbo Regional Council Solar and Wind Farm Consultative Committee meeting held 6 April 2021.

Moved by Councillor J Diffey and seconded by Councillor V Etheridge

MOTION

That the report be deferred due to an administrative matter.

CARRIED

**CCL21/64 REPORT OF THE DEVELOPMENT AND ENVIRONMENT COMMITTEE - MEETING
12 APRIL 2021 (ID21/647)**

The Council had before it the report of the Development and Environment Committee meeting held 12 April 2021.

Moved by Councillor J Diffey and seconded by Councillor K Parker

MOTION

That the report of the Development and Environment Committee meeting held on 12 April 2021, be adopted.

CARRIED

**CCL21/65 REPORT OF THE INFRASTRUCTURE AND LIVEABILITY COMMITTEE - MEETING
12 APRIL 2021 (ID21/648)**

The Council had before it the report of the Infrastructure and Liveability Committee meeting held 12 April 2021.

Moved by Councillor A Jones and seconded by Councillor J Diffey

MOTION

That the report of the Infrastructure and Liveability Committee meeting held on 12 April 2021, be adopted.

CARRIED

**CCL21/66 REPORT OF THE CULTURE, ECONOMY AND CORPORATE COMMITTEE -
MEETING 12 APRIL 2021 (ID21/649)**

The Council had before it the report of the Culture, Economy and Corporate Committee meeting held 12 April 2021.

Moved by Councillor K Parker and seconded by Councillor J Diffey

MOTION

That the report of the Culture, Economy and Corporate Committee meeting held on 12 April 2021, be adopted.

CARRIED

REPORTS FROM STAFF:**CCL21/67 DRAFT 2021/2022 DELIVERY PROGRAM AND OPERATIONAL PLAN (ID20/1753)**

The Council had before it the report dated 13 April 2021 from the Chief Executive Officer regarding Draft 2021/2022 Delivery Program and Operational Plan.

Moved by Councillor A Jones and seconded by Councillor J Diffey

MOTION

1. That the report from the Chief Executive Officer, dated 13 April 2021, be noted.
2. That the draft 2021/2022 Delivery Program and Operational Plan (attached in Appendix 1) and draft Long Term Financial Plan (attached in Appendix 2), be adopted by Council for the purpose of public exhibition.
3. That the draft 2021/2022 Delivery Program and Operational Plan and draft Long Term Financial Plan be placed on public exhibition from Friday 30 April 2021 for a period of not less than 28 days.
4. That community and stakeholder engagement be undertaken in accordance with the Community Engagement Strategy included in this report.
5. That following completion of public exhibition, a further report be presented to Council for consideration, addressing the outcomes of the public exhibition.

CARRIED

CCL21/68 DRAFT 2021/2022 BUDGET AND FEES/CHARGES (ID21/556)

The Council had before it the report dated 7 April 2021 from the Chief Executive Officer regarding Draft 2021/2022 Budget and Fees/Charges.

Moved by Councillor K Parker and seconded by Councillor V Etheridge

MOTION

1. That the report from the Chief Executive Officer, dated 7 April 2021, be noted.
2. That the 2021/2022 draft Budget (including Fees and Charges) and Forward Budgets for 2022/2023, 2023/2024 and 2024/2025 be adopted and placed on public exhibition from Friday, 30 April 2021 for 28 days.
3. That the 2021/2022 draft Macquarie Regional Library Budget be adopted and placed on public exhibition from Friday, 30 April 2021 for 28 days, in conjunction with Council's planning documents.
4. That submissions and comments closing at 5.00 pm on Friday, 28 May 2021 be invited in respect of the 2021/2022 draft Council Budget and the draft Macquarie Regional Library Budget.
5. That the various reports of the Directors, in reference to the Budget, be noted.
6. That the interest rate on overdue rates and charges be the maximum, as advised by the Minister for Local Government for the 2021/2022 year.
7. That the annual pensioner rebates on both water and sewerage charges be maintained at \$100.00 each for the 2021/2022 financial year.

8. That the annual pensioner rebate on the Domestic Waste Management Service Charge – Three Bin Service be maintained at \$52.00 for the 2021/2022 financial year.
9. That Dubbo Regional Council not utilise the provisions under the draft Local Government Amendment Bill 2021 to achieve rates harmonisation gradually.

CARRIED

CCL21/69 DRAFT PLANNING AGREEMENT - RAAF BASE - RESULTS OF PUBLIC EXHIBITION (ID21/240)

The Council had before it the report dated 26 March 2021 from the Growth Planner regarding Draft Planning Agreement - RAAF Base - Results of Public Exhibition.

Moved by Councillor K Parker and seconded by Councillor A Jones

MOTION

1. That the report of the Growth Planner, dated 26 March 2021, be noted.
2. That Council enter into a Planning Agreement with Andorra Developments Pty Ltd, in accordance with the agreement attached in Appendix 1.
3. That the Chief Executive Officer be authorised to enter into a Planning Agreement and complete any documentation under Power of Attorney.
4. That those who made a submission be acknowledged and advised of Council's determination.

CARRIED

CCL21/70 DUBBO REGIONAL COUNCIL REPRESENTATIVES ON THE WESTERN REGIONAL PLANNING PANEL (ID21/594)

The Council had before it the report dated 6 April 2021 from the Manager Building and Development Services regarding Dubbo Regional Council Representatives on the Western Regional Planning Panel.

Moved by Councillor J Diffey and seconded by Councillor A Jones

MOTION

1. That the report from the Manager Building and Development Services, dated 6 April 2021, be noted.
2. That Council confirm Mr Lindsay Mathieson and Ms Josie Howard as its two nominations to represent Dubbo Regional Council on the Western Regional Planning Panel, for a period not to exceed three years.

CARRIED

CCL21/71 DESIGN SERVICES FOR BULK WATER INFRASTRUCTURE - EXTENSION OF CONSULTANCY AGREEMENT FOR ONE YEAR (ID21/582)

The Council had before it the report dated 13 April 2021 from the Manager Major Projects regarding Design Services for Bulk Water Infrastructure - Extension of Consultancy Agreement for One Year.

Moved by Councillor K Parker and seconded by Councillor J Diffey

MOTION

1. That the report of the Manager Major Project, dated 13 April 2021, be noted.
2. That Premise Australia be engaged for a further 12 month period to provide consultancy services in relation to the design of water security projects for Dubbo Regional Council.
3. That Premise Australia be engaged under the same terms, including the Schedule of Rates, as per the original agreement entered into with Council in April 2019.
4. That all necessary documentation in relation to this matter be executed under Power of Attorney.

CARRIED

CCL21/72 EVENT ASSISTANCE PROGRAM - 2020/2021 EVENT FUNDING (ID21/543)

The Council had before it the report dated 31 March 2021 from the Director Culture and Economy regarding Event Assistance Program - 2020/2021 Event Funding.

Moved by Councillor V Etheridge and seconded by Councillor K Parker

MOTION

1. That the report of the Director Culture and Economy, dated 31 March 2021, be noted.
2. That funding determined under Emerging Event Fund (Round 2) of the Event Funding Program totalling \$2,000 and resource assistance be noted.
3. That funding determined under Community Event Fund (Round 2) of the Event Funding Program totalling \$10,000 and resource assistance be noted.
4. That funding be determined and conditional to each event supplying COVID-19 Safety Plans and meeting any conditions and restrictions in place under Public Health Orders.
5. That should any funded events not proceed, the funds will be returned to Council.

CARRIED

CCL21/73 DUBBO REGIONAL COUNCIL REPRESENTATION TO THE TARONGA CONSERVATION SOCIETY AUSTRALIA BOARD (ID21/650)

The Council had before it the report dated 20 April 2021 from the Director Organisational Performance regarding Dubbo Regional Council Representation to the Taronga Conservation Society Australia Board.

Moved by Councillor V Etheridge and seconded by Councillor A Jones

MOTION

1. That the report of the Director Organisational Performance, dated 20 April 2021, be noted.
2. That Council nominate the Chief Executive Officer, Dean Frost, and the Director Culture and Economy, Natasha Comber, for representation to the Board of the Taronga Conservation Society Australia Board.

CARRIED

CCL21/74 COMMENTS AND MATTERS OF URGENCY (ID21/591)

There were no matters recorded under this clause.

At this junction it was moved by Councillor S Lawrence that the Council resolves into the Committee of the Whole Council, the time being 5.55pm.

The meeting resumed at 7.29pm.

CCL21/75 COMMITTEE OF THE WHOLE

The Director Organisational Performance read to the meeting the Report of the Committee of the Whole meeting held on 26 April 2021.

Moved Councillor J Diffey and seconded by Councillor J Ryan

MOTION

That the report of the meeting of the Committee of the Whole held on 26 April 2021, be adopted.

CARRIED

The meeting closed at 7.30pm.

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CHAIRMAN



REPORT

COMMITTEE OF THE WHOLE COUNCIL

26 APRIL 2021

PRESENT: Councillors J Diffey, V Etheridge, A Jones, S Lawrence, K Parker and J Ryan.

ALSO IN ATTENDANCE:

The Chief Executive Officer, the Governance and Internal Control Manager, the Executive Officer Organisational Performance, the Community Support Officer, the Communications Partner, the Director Organisational Performance, the Director Culture and Economy, the Director Infrastructure, the Director Development and Environment and the Director Liveability.

Councillor S Lawrence assumed chairmanship of the meeting.

The proceedings of the meeting commenced at 5.57pm.

CW21/5 CONFIDENTIAL MATTER (ID21/669)

The Committee was addressed by the Chief Executive Officer regarding Confidential matter.

Moved by Councillor S Lawrence

MOTION

The Committee recommends that members of the press and public be excluded from the meeting during consideration of this item, the reason being that the matter concerned personnel matters concerning particular individuals (other than Councillors) (Section 10A(2)(a)).

CARRIED

Moved by Councillor J Diffey and seconded by Councillor K Parker

MOTION

That the verbal report of the CEO be noted.

CARRIED

The meeting closed at 7.28pm.

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CHAIRMAN



NOTICE OF MOTION: Housing Availability

REPORT DATE: 27 April 2021

FILE: ID21/675

Council, at its Ordinary Council meeting held 22 March 2021, resolved:

“That the matter be deferred.”

Council now has before it a Notice of Motion dated 27 April 2021 regarding Housing Availability, which has been updated since it was deferred at the March meeting, as follows:

- “1. That the CEO be requested to provide a report to the July 2021 ordinary meeting of council advising councillors on:
 - a. The general state of the housing market in the Dubbo Local Government Area including an overview of activity of particular housing types and particularly shortages of certain housing types.
 - b. Whether council is and has been managing the strategic availability of residential land in the Dubbo Local Government Area and any steps that could be taken to assist further within existing processes.
 - c. Steps council could take to address any shortages of particular housing types including specific advice on other ways that council can work with other levels of government and the private sector to address any housing supply shortages identified, including whether there is a possible role for council in property development.

2. That the CEO be requested to arrange a council led forum of relevant stakeholders prior to July to explore factors contributing to an undersupply of residential housing in the Dubbo Local Government Area and any possible policy and community responses.”

RECOMMENDATION

1. That the CEO be requested to provide a report to the July 2021 ordinary meeting of council advising councillors on:
 - a. The general state of the housing market in the Dubbo Local Government Area including an overview of activity of particular housing types and particularly shortages of certain housing types.
 - b. Whether council is and has been managing the strategic availability of residential land in the Dubbo Local Government Area and any steps that could be taken to assist further within existing processes.
 - c. Steps council could take to address any shortages of particular housing types including specific advice on other ways that council can work with other levels of government and the private sector to address any housing supply shortages identified, including whether there is a possible role for council in property development.
2. That the CEO be requested to arrange a council led forum of relevant stakeholders prior to July to explore factors contributing to an undersupply of residential housing in the Dubbo Local Government Area and any possible policy and community responses.

Councillor S Lawrence
Acting Mayor

Appendices:

- 1 [↓](#) Clr Lawrence - Housing Supply - May 2021

Councillor Stephen Lawrence
PO Box 81
DUBBO NSW 2830

27 April 2021

The Chief Executive Officer
Dubbo Regional Council
PO Box 81
DUBBO NSW 2830

Dear Dean

NOTICE OF MOTION – HOUSING SUPPLY

I would like to place the following notice of motion on the agenda for the March 2021 Ordinary meeting of Council.

1. *That the CEO be requested to provide a report to the July 2021 ordinary meeting of council advising councillors on:*
 - a. *The general state of the housing market in the Dubbo Local Government Area including an overview of activity of particular housing types and particularly shortages of certain housing types.*
 - b. *Whether council is and has been managing the strategic availability of residential land in the Dubbo Local Government Area and any steps that could be taken to assist further within existing processes.*
 - c. *Steps council could take to address any shortages of particular housing types including specific advice on other ways that council can work with other levels of government and the private sector to address any housing supply shortages identified, including whether there is a possible role for council in property development.*
2. *That the CEO be requested to arrange a council led forum of relevant stakeholders prior to July to explore factors contributing to an undersupply of residential housing in the Dubbo Local Government Area and any possible policy and community responses.*

Yours faithfully



Stephen Lawrence
Councillor



NOTICE OF MOTION: Advocating for Recognition of James Samuels at Dubbo Hospital

REPORT DATE: 27 April 2021
FILE: ID21/699

Council had before it a Notice of Motion dated 27 April 2021 from Councillor J Ryan regarding the Advocating for Recognition of James Samuels at Dubbo Hospital as follows:

I would like to place the following notice of motion on the agenda for 4 May 2021 Ordinary meeting of Council.

- “1. That Dubbo Regional Council advocates to the state government to name part of the new Dubbo Hospital redevelopment after James Samuels, who attended the first meeting to push for a hospital in 1866, served as treasurer on the hospital committee for more than 60 years, and who donated much of the land where Dubbo Hospital now stands, to the state government.*
- 2. That the Mayor write a letter to Dubbo MP Dugald Saunders and asks him to advocate for this issue on Council’s behalf.”*

RECOMMENDATION

- 1. That Dubbo Regional Council advocates to the state government to name part of the new Dubbo Hospital redevelopment after James Samuels, who attended the first meeting to push for a hospital in 1866, served as treasurer on the hospital committee for more than 60 years, and who donated much of the land where Dubbo Hospital now stands, to the state government.**
- 2. That the Mayor write a letter to Dubbo MP Dugald Saunders and asks him to advocate for this issue on Council’s behalf.**

Councillor J Ryan
Councillor

Appendices:

- [1](#) Notice of Motion - Clr J Ryan - 04/05/2021 - Advocating for recognition of James Samuels at Dubbo Hospital

Councillor John Ryan
PO Box 81
DUBBO NSW 2830

27 April 2021.

The Chief Executive Officer
Dubbo Regional Council
PO Box 81
DUBBO NSW 2830

Dear Dean

NOTICE OF MOTION – ADVOCATING FOR RECOGNITION OF JAMES SAMUELS AT DUBBO HOSPITAL

I would like to place the following notice of motion on the agenda for the May 2021 Ordinary meeting of Council.

"1. That Dubbo Regional Council advocates to the state government to name part of the new Dubbo Hospital redevelopment after James Samuels, who attended the first meeting to push for a hospital in 1866, served as treasurer on the hospital committee for more than 60 years, and who donated much of the land where Dubbo Hospital now stands, to the state government.

2) That the Mayor write a letter to Dubbo MP Daguid Saunders and asks him to advocate for this issue on Council's behalf."

Yours faithfully



John Ryan
Councillor



REPORT: Possibilities for the Reduction of Powers, Expenses and Facilities of the Mayor

AUTHOR: Chief Executive Officer
REPORT DATE: 29 April 2021
TRIM REFERENCE: ID21/706

EXECUTIVE SUMMARY

Council at its Extraordinary Meeting held 12 April 2021, resolved, in part:

"6. That a report be prepared for the 3 May 2021 Ordinary meeting of Council (if the Mayor Ben Shields has not resigned from council within that period or his position otherwise become vacant), with the CEO to provide a report on;

- a) What powers of the mayor in between council meetings can be lawfully removed or reduced,*
- b) Whether the mayoral fees, expenses and facilities as provided for in the 'Policy for the Payment of Expenses and Provision of Facilities for the Mayor and Councillors' and determined annually by council resolution can be lawfully reduced or eliminated."*

This report outlines available courses of action with regards to the above as per the Local Government Act 1993 (LGA), the Local Government (General) Regulation 2005 (the Regulation) and the Office of Local Government's (OLG) *Guidelines for the payment of expenses and provision of facilities for mayors and councillors in NSW* (the Guidelines).

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

POLICY IMPLICATIONS

In accordance with the Local Government Act 1993 (LGA), Council is required to review its Policy for the Payment of Expenses and Provision of Facilities within 12 months of the election under section 252(1) of the LGA.

When the policy is reviewed during the first 12 months of a new term, it must be placed on public exhibition for a minimum 28 days in accordance with section 253(5), even if it is the same as the existing policy.

RECOMMENDATION

That the report of the Chief Executive Officer, dated 29 April 2021, be noted.

Dean Frost
Chief Executive Officer

BACKGROUND

Dubbo Regional Council elects its Mayor and Deputy Mayor via a councillor nomination and vote. The current positions are occupied until the election in September 2021, noting the caretaker period preceding the election.

Council at its Extraordinary Meeting held 12 April 2021, resolved:

“That Councillor B Shields’ application for Leave of Absence from Wednesday 31 March 2021 to Wednesday 26 May 2021, where Councillor Shields will be absent due to personal reasons, be granted.”

This leave of absence represents a period of less than three months.

REPORT

Powers of the Mayor

The powers and authority assigned to the position of Mayor are set by the Local Government Act 1993 (LGA). Section 225 of the LGA outlines that Councils must have a Mayor, and section 226 of the LGA defines the role and powers of the Mayor.

Discussions with the Office of Local Government (OLG) have confirmed the role of the Mayor is uniform across all councils, in line with legislation. Should the Mayor be unable to fulfil the role there are two provisions:

1. Certain aspects can be delegated to the CEO under section 377 (there are exceptions) for a period of time. The provision of this delegation must be made by council resolution.
2. Alternatively, the Deputy Mayor is escalated to the role of Mayor during any absences and carries out all the functions of the Mayor in accordance with section 231(3) of the LGA:

The deputy mayor may exercise any function of the mayor at the request of the mayor or if the mayor is prevented by illness, absence or otherwise from exercising the function or if there is a casual vacancy in the office of mayor.

Councillor Shields’ leave of absence falls within ‘absence or otherwise,’ hence the Deputy Mayor is currently fulfilling all functions of the role of Mayor.

If the role of Deputy Mayor was to become vacant, section 231(2) allows for a deputy mayor to be elected for the same time as the mayor, that is a two year term, or for a shorter term.

231 (4) *The councillors may elect a person from among their number to act as deputy mayor if the deputy mayor is prevented by illness, absence or otherwise from exercising a function under this section, or if no deputy mayor has been elected.*

Fees payable to Councillors and Mayors

The payment of fees to councillors and mayors is mandated under the LGA, section 248:

248 Fixing and payment of annual fees for councillors

- (1) *A council must pay each councillor an annual fee.*
- (2) *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- (3) *The annual fee so fixed must be the same for each councillor.*
- (4) *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal*

Section 249 of the LGA also mandates the payment of an additional fee to the Mayor:

249 Fixing and payment of annual fees for the mayor

- (1) *A council must pay the mayor an annual fee.*
- (2) *The annual fee must be paid in addition to the fee paid to the mayor as a councillor.*
- (3) *A council may fix the annual fee and, if it does so, it must fix the annual fee in accordance with the appropriate determination of the Remuneration Tribunal.*
- (4) *A council that does not fix the annual fee must pay the appropriate minimum fee determined by the Remuneration Tribunal.*
- (5) *A council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.*

Options to defer fees from the role of Mayor are:

1. Apportionment

Whilst the Deputy Mayor is acting in the capacity of the Mayor, Council may resolve to pay the Deputy Mayor a percentage, decided upon by the Council, of the Mayor's additional fee. Any amount is deducted from the Mayoral fee so there is no additional financial cost to council.

Any apportionment of the additional mayoral fee must be made by council resolution per the wording of subsection (5) above 'determined by the council'.

2. Withholding fees

Council has the capacity to withhold an annual fee in part, or entirely for a leave of absence less than three months. However, once leave of absence has extended beyond three months, reductions or withholding of fees becomes mandatory in line with the following legislation:

Local Government Act 1993

254A Circumstances in which annual fees may be withheld

- (1) *Despite this Division, a council may resolve that an annual fee will not be paid to a councillor or that a councillor will be paid a reduced annual fee determined by the council—*
- (a) *for any period of not more than 3 months for which the councillor is absent, with or without leave, from an ordinary meeting or ordinary meetings of the council, or*
- (b) *in any other circumstances prescribed by the regulations.*
- (2) *Despite this Division, if a councillor is absent, with or without leave of the council, from ordinary meetings of the council for any period of more than 3 months, the council must not pay any annual fee, or part of an annual fee, to that councillor that relates to the period of absence that is in excess of 3 months.*

Historically, Council has only withheld fees on one occasion in the current term. This happened when a councillor's leave of absence extended beyond three months, which enacted the mandatory provision for withholding fees.

A decision to reduce or withhold fees must be made by council resolution as outlined above.

3. Maximum and minimum fees payable

In accordance with section 241 of the LGA, the Local Government Remuneration Tribunal (the Tribunal) must determine the maximum and minimum fees for each category of councils by 1 May each year. On 8 May 2019, Council resolved to pay the councillor annual fee and the additional Mayoral annual fee at the maximum amounts set by the Tribunal, being \$20,280 and \$44,250 respectively.

The following year, the Tribunal did not make any changes to the minimum and maximum fee payable (noting this coincided with the Covid-19 pandemic). However, the Tribunal is required to determine the remuneration categories of councils and mayoral offices at least once every three years, under section 239 of the LGA. Each category has different minimum and maximum fees. The Tribunal undertook a significant review of the categories in 2017 and then another review three years later as part of its 2020 determination. This review created two new categories and accordingly Dubbo Regional Council was re-categorised as a Regional Centre Council commencing 1 July 2020, its previous category being Regional Rural Council. The new category applied an increased minimum and maximum fee bracket.

For the category of Regional Centre Councils, the Councillor Annual Fee is a minimum of \$13,820 and a maximum of \$24,320. The Additional Annual Fee for the role of Mayor is a minimum of \$28,750 and a maximum of \$60,080. On 7 December 2020 Council resolved to set the maximum amounts for the Councillors fee and the additional Mayoral fee:

“That pursuant to the provisions of Section 248(2) of the Local Government Act 1993, the annual fee payable to Councillors for the period commencing 1 July 2020 be \$24,320.”

And:

“That pursuant to the provisions of Section 249(3) of the Local Government Act 1993, the annual fee payable to the Mayor for the period commencing 1 July 2020 be \$60,080.”

While changes to the annual fees following council resolutions such as the above are considered an anomaly, there is nothing to preclude council from reducing the annual fees payable to councillors or the additional annual fee payable to the mayor as long as it remains within the fixed bracket. Council has had discussions with its solicitors confirming this could be done by way of council resolution citing a specific start date.

It is noted that councillors have received their respective fees for the month of March on approximately 14 April 2021. The next monthly payment will be for the month of April, and will be paid on 12 May 2021. Any changes to the payment of fees to councillors for the month of April 2021 must be advised by the morning of 11 May 2021.

Provision of Facilities

The Office of Local Government released a ‘Councillor Expenses and Facilities Policy – Better Practice Template’ and circular in 2017. This template is provided to councils as a suggested format and is considered best practice. The template has been prepared to be consistent with the LGA, the Local Government (General) Regulation 2005 (the Regulation) and the Office of Local Government’s (OLG) *Guidelines for the payment of expenses and provision of facilities for mayors and councillors in NSW* (the Guidelines).

Dubbo Regional Council’s policy makes the additional provisions for the mayoral role as allowed for in the template. The current additional provisions for the role of Mayor are found within clause 2.1 of the Policy for the Payment of Expenses and Provision of Facilities for the Mayor and Councillors.

The provision of these facilities is not considered a ‘perk’ for the role of Mayor; rather they are provided to allow the person in the role of Mayor to perform the duties and representations of Council business effectively and efficiently.

Bathurst City, Orange City and Wagga Wagga City Councils each have comparable provisions to Dubbo Regional Council. For example, councillors are provided with a council office area, access to a vehicle, office supplies, travel, professional development, plus mobile phone use, business cards, ipads and internet. Some go further than Dubbo Regional Council’s provisions, such as complimentary tickets to theatre and motor sport events, and entries to museums outlined within respective policies.

The above mentioned Councils also provide consistent additional provisions for the mayoral position within the policies such as a furnished office, mayoral robes and chains, credit card and vehicle. Again, some make additional provisions such as a REX card/lounge pass for airports.

Section 252(1) of the LGA stipulates that Council must adopt a policy concerning the payment of expenses and provision of facilities within the first 12 months of each term. Hence the policy will need to be reviewed between September 2021 and September 2022, including a mandated period of public exhibition and considerations of any submissions in accordance with the section 253(5) of the LGA.

In addition, legislation provides that Council may amend the policy for the payment of expenses and provision of facilities 'from time to time' in accordance with section 252(4), including public exhibition and submissions that may be made. While section 253 outlines the need for any changes to go on public exhibition, unless the *"council is of the opinion that the proposed amendment is not substantial"* (section 253 (3)).

Given the industry standard and discussions with the Office of Local Government, any changes to the current best practice provision of facilities would not be considered to fall within the meaning of 'not substantial' and should be placed on public exhibition for a minimum period of 28 days.

SUMMARY

The powers and authority assigned to the position of Mayor are set by the Local Government and cannot be lawfully reduced or removed. Should the Mayor be incapable of fulfilling the role, two courses of action are available:

1. Certain aspects can be delegated to the CEO (with exceptions) for a period of time. The provision of this delegation must be made by council resolution.
2. Alternatively, the Deputy Mayor is escalated to the role of Mayor during any absences and carries out all the functions of the Mayor.

It is considered that the powers and authority assigned to the position of Mayor are currently being fulfilled by the Deputy Mayor in the Mayor's absence.

With regards to the reduction of the mayoral fees, there are three available courses of action:

1. Council can resolve to apportion a percentage of the Mayor's additional fee to the Deputy Mayor whilst the latter is acting in the capacity of the Mayor.
2. Council has the capacity to withhold an annual fee in part or entirely for a leave of absence less than three months. For a leave of absence in excess of three months, reductions or withholding of fees becomes mandatory.
3. Whilst considered an anomaly, nothing precludes council from reducing the annual fees payable to councillors or the additional annual fee payable to the mayor, as resolved by Council on 7 December 2021, as long as the amended fee falls within the prescribed bracket set by the Remuneration Tribunal.

The provision of facilities as set out in council's Policy for the Payment of Expenses and Provision of Facilities for the Mayor and Councillors (the Policy) is in line with best practice as defined by the Office of Local Government, and is comparable to similar councils across NSW.

Any changes to the current best practice provision of facilities would be considered substantial and would thus be subject to the mandatory period of public exhibition of 28 days and review of any submissions made.

Appendices:

- [1](#) **DRAFT - Council Policy - Payment of Expenses and Provision of Facilities for the Mayor and Councillors - April 2021**



DRAFT Policy for the Payment
of Expenses and Provision of
Facilities for the Mayor and
Councillors

April 2021

Document Revision History	
Description	Date
Adopted by Council for the purpose of public exhibition	28 August 2017
Adopted by Council	23 October 2017
Adopted by Council for the purpose of public exhibition	26 February 2018
Adopted by Council	23 April 2018
Draft to be considered by Council	11 November 2019
Adopted by Council	28 January 2020
Amendment resolved by Council	27 April 2021
Draft to be considered by Council	4 May 2021
Notes	

DRAFT

DUBBO REGIONAL COUNCIL

POLICY

PAYMENT OF EXPENSES AND PROVISION OF FACILITIES FOR THE MAYOR AND COUNCILLORS

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PART 1 – INTRODUCTION

1.1 Introduction

This policy enables the reasonable and appropriate reimbursement of expenses and provision of facilities to councillors to help them undertake their civic duties.

It ensures accountability and transparency, and seeks to align councillor expenses and facilities with community expectations. Councillors must not obtain private or political benefit from any expense or facility provided under this policy.

The policy has been prepared in accordance with the *Local Government Act 1993* (the Act) and *Local Government (General) Regulation 2005* (the Regulation), and complies with the Office of Local Government's Guidelines for the payment of expenses and provision of facilities to Mayors and Councillors in NSW.

The policy sets out the maximum amounts Council will pay for specific expenses and facilities. Expenses not explicitly addressed in this policy will not be paid or reimbursed.

1.2 Purpose of this Policy

The objectives of this policy are to:

- enable the reasonable and appropriate reimbursement of expenses incurred by Councillors while undertaking their civic duties
- enable facilities of a reasonable and appropriate standard to be provided to Councillors to support them in undertaking their civic duties
- ensure accountability and transparency in reimbursement of expenses and provision of facilities to Councillors
- ensure facilities and expenses provided to Councillors meet community expectations
- support a diversity of representation
- fulfil the Council's statutory responsibilities.

1.3 Legislative Provision and Guidance Documents

Local Government Act 1993, Sections 252 and 253

Local Government (General) Regulation 2005, Clauses 217 and 403

Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, 2009

Local Government Circular 09-36 Guidelines for Payment of Expenses and Facilities

Local Government Circular 05-08 legal assistance for Councillors and Council Employees.

1.4 Relationship to Annual Fees

The payment of expenses and the facilities which may be provided to the Mayor and Councillors under this Policy shall be provided in addition to the annual fees payable to the Mayor and Councillors as determined by the Council under Sections 248 and 249 of the Act.

1.5 Code of Conduct

Council's Code of Conduct sets the minimum requirements of behaviour for Council officials. The Code of Conduct refers, in part, to the use of Council Resources as follows:

- You must use Council resources ethically, effectively, efficiently and carefully in the course of your official 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.
- You must be scrupulous in your use of Council property including intellectual property, official services and facilities and must not permit their misuse by any other person or body.
- You must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- You must not convert any property of the Council to your own use unless properly authorised.
- You must not use Council's computer resources to search for access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

These sections of the Code are relevant to this Policy in that they provide for an overarching standard of behaviour that the Mayor and Councillors would be expected to display when using Council's resources.

PART 2 – FACILITIES FOR MAYOR AND COUNCILLORS

2.1 Mayor

The Mayor, in carrying out the duties of office, be entitled to receive the following:

- 2.1.1 The use of Mayoral Robes and Chain of Office
- 2.1.2 Suitable office accommodation in the Dubbo Civic Administration Building including the provision of a computer and software packages that enable email and internet services.
- 2.1.3 A range of secretarial and support services including telephone and reception duties, typing, organisation of Civic Receptions including catering, preparation of speeches, press releases, meetings and correspondence and other reasonable requests by the Mayor.

This service is reviewed and renegotiated with the Mayor following each Mayoral election.

- 2.1.4 A motor vehicle for official (civic duties) and private use as follows:
The provision to the Mayor of a suitable and appropriate official vehicle, to the value of up to \$55,000 (ex GST), fully serviced and maintained, for both civic and private use, with such vehicle type to be at the discretion of the Mayor at the time of changeover, with changeover to occur at not less than 15,000km or 12 months, whichever occurs first noting that the vehicle shall be changed over immediately following each Mayoral election when there is a change of Mayor.
- the motor vehicle provided for use by the Mayor may be used by the Mayor for private purposes
 - the annual fee payable to the Mayor will be reduced by the value of the private use benefit taken up
 - the value of the private use benefit will be determined by applying the rate per kilometre published by Local Government NSW from time to time which is recommended for use by councils when costing motor vehicle benefits in remuneration packages to the number of private use kilometres travelled.
 - the Mayor will keep a log of all private use kilometres travelled and submit such log at the end of each month
- 2.1.5 A mobile telephone for which all expenses are paid but which is to be used exclusively for Council and Civic duties.
- 2.1.6 Reasonable expenses for the Mayor and partner/accompanying person to attend on behalf of Council in the office of Mayor on official (including conferences) or legal occasions including travel, accommodation subsistence and the like. Attendance at local functions (excluding conferences as defined in Clause 3.1) by the Mayor and partner/accompanying person shall be paid by Council.
- 2.1.7 If the Mayor so chooses, a credit card facility and a transportation services charging facility to be used for expenses incurred in the pursuit of official Council business. The credit card facility is to be used in situations where it is not possible to go through Council's normal procedure for the ordering and/or payment of goods and services.
- 2.1.8 An allocated carparking space adjacent to the Dubbo Civic Administration Building and secure parking at the Dubbo City Regional Airport (where necessary).
- 2.1.9 Provision of appropriate Council branded clothing including, but not limited to, blazer, jacket, polo shirt or t-shirt as approved by the Chief Executive Officer.

2.2 Councillors

To assist the Councillors, including the Mayor, in discharging the function of Civic Office Councillors are, if they request, entitled to receive the following without reduction to the fees payable under Section 248 of the Act:

- 2.2.1 Secretarial service including typing, photocopying, printing and postage for the following purposes:
- a) Initiating correspondence to, and answering correspondence received from,

residents / ratepayers, Members of Parliament, Government Departments, statutory authorities / bodies, other local authorities, other Councillors, local government related bodies and organizations or the general public in relation to the business of the Council or local government subject to a response to petitions received by Councillors will only be made to the principal person who lodges the petition and not all signatories.

- b) Replying to invitations to attend functions/gatherings received in their capacity as a Councillor;
- c) Communications to Councillors and Council's staff on official business;
- d) Access to a customer service portal to report and manage and complaint/request received as a Councillor

provided that under no circumstances will the Council permit the facilities provided to be used for the initiation or issue of circular type letters or election material/letters.

- 2.2.2 Appropriate refreshments/meals will be available for Council meetings, Council Committee meetings, Councillor briefings and workshops, approved meetings and engagements, and official council functions as approved by the Chief Executive Officer.

As an indicative guide for the standard of refreshments to be provided at Council related meetings, the Chief Executive Officer must be mindful of Part B Monetary Rates of the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as adjusted annually.

- 2.2.3 Suitable stationery supplies.

- Councillor business cards and name badges
- Postage - official Councillor correspondence - to be directed through the Council's own mail system.

- 2.2.4 Access to Information - Councillors can obtain copies of Council information, if the information is required to enable a Councillor to undertake their role as defined under Section 232 of the Local Government Act 1993.

When seeking information on policy issues and day to day matters, in the exercise of their statutory role as a member of the Council, Councillors are to direct their enquiries to the Chief Executive Officer, the relevant Director, or an officer nominated by the Director.

- 2.2.5 Preparation of media material for the Mayor in respect of Council activities and for the chairpersons of Council's Development and Environment; Infrastructure and Liveability; and Culture, Economy and Corporate Committees in respect of Committee issues.

- 2.2.6 Access to a suitable vehicle or vehicles (if available) provided by the Council for use on official duties connected with discharging the duties of Civic Office.

- 2.2.7 The provision of an electronic tablet device, appropriate broadband communications and a suitable printer in the Dubbo Civic Administration Building.

- 2.2.8 All unexpended facilities or equipment supplied under this policy are to be relinquished immediately upon a Councillor or Mayor ceasing to hold office or at the cessation of their civic duties.

2.2.9 When a councillor or the mayor take a leave of absence in excess of one month, they are required to hand in their facilities and equipment, such as vehicle, phone, ipad or laptop for the period that they will be on leave.

2.2.10 Provision of appropriate Council branded clothing including, but not limited to, blazer, jacket, polo shirt or t-shirt as approved by the Chief Executive Officer.

2.2.11 An appropriate space for Councillors be provided Monday to Friday 8am – 8pm to allow them to meet with ratepayers.

2.3 General Provisions

Additional to the facilities provided by Council to Councillors and the Mayor under this Policy, it is expected that further expenses may be incurred in the performance of Councillors' and the Mayor's civic duties. Accordingly, Council will provide reimbursement of approved expenses only incurred in the performance of a Councillors' or Mayor's role.

No allowances or expenses other than those expressly contained in this policy are payable to the Mayor or Councillors.

Councillors will not be reimbursed for alcoholic beverages.

2.4 Monetary Limits

Expenses under this policy, in most instances, will be reimbursed based on actual expenditure. However, monetary limits have been applied which set a maximum level of expenditure which Council will reimburse for each type of expense. These limits are listed below in the table.

The monetary limits contained within this policy have been set based on information available on reasonable market rates for the provision of the relevant services. Regional considerations have also been addressed with respect to accommodation costs.

These limits may be amended with any amendment to this policy and will be assessed for relevance and reasonableness on an annual basis in line with the annual policy review.

Expense Type	Refund Basis	Limit Amount	Comment
Registration costs	Actual	None	Includes costs relating to official luncheons, dinners and tours/inspections which are relevant to the interests of the Council
Accommodation	Actual up to daily limit	As per Table 1 Rates and Allowances of Part B Monetary Rates of the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009	<p>The daily limits for accommodation and meal expenses within Australia are to be consistent with those set out in Part B Monetary Rates of the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as adjusted annually.</p> <p>Limits are dependent on the location of accommodation, providing for regional differences in costs.</p> <p>Where evidence is provided that accommodation within the above cost range cannot be provided or is not available then the Chief Executive Officer has the discretion to approve the increase in costs.</p> <p>In circumstances where it would introduce undue risk for a Councillor to travel to or from official business in the late evening or early morning, reimbursement of costs for accommodation and meals on the night before or after the meeting may be approved by the Chief Executive Officer. This includes where a meeting finishes later than 9.00pm or starts earlier than 7.00am and the Councillor lives more than 50km from the meeting location.</p>
Out of pocket expenses	Actual up to daily limit	\$100 per day	<p>Expenses in this category may include:</p> <ul style="list-style-type: none"> ▪ Reasonable telephone, facsimile or internet usage ▪ Reasonable refreshments ▪ Meals not included in registration fees, etc <p>The following expenses will not be reimbursed and are the responsibility of the Mayor/Councillors:</p> <ul style="list-style-type: none"> ▪ Any traffic or parking fines ▪ Administrative charges for road toll accounts ▪ Alcohol (not consumed as part of meal) ▪ Cigarettes ▪ Mini-bar items including snack foods

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Cost of service provided	Actual	None	No payment shall be reimbursed for any component of a ticket which is additional to the service cost of the function, such as a donation to a political party or candidate's electoral fund, or some other private benefit. An additional payment to a registered charity may be acceptable as part of the cost of the function
Enrolment fees	Actual	None	In most cases, Council will arrange and fund attendance of the Mayor and Councillors at training courses
Air Travel	Actual	None	In most cases, Council will arrange and fund the Mayor and Councillors' Air Travel when required
Rail Travel	Actual	None	In most cases, Council will only arrange and fund the Mayor and Councillors' rail travel when requested
Taxi	Actual	None	
Bus	Actual	None	
Incidental expenses associated with attendance at seminars, training courses or official functions	Actual up to daily limit	\$100 per day	Expenses in this category may include: <ul style="list-style-type: none"> • Parking fees • Tolls <p>The following expenses will not be reimbursed and are the responsibility of the Mayor/Councillors:</p> <ul style="list-style-type: none"> • Any traffic or parking fines • Administrative charges for road toll accounts • Alcohol (not consumed as part of meal) • Cigarettes • Mini-bar items including snack foods
Personal care or child care expenses: up to four (4) hours	Actual up to daily limit	\$100 per day	Council will reimburse costs to a maximum of \$100 to cover a four (4) hour engagement of a babysitter or carer where required to allow the Mayor or Councillors to attend any Council, Standing Committee, Meetings, Committee Meetings, Working Party or Council workshops. The four (4) hour period shall include the period of 30 minutes prior to and after the conclusion of the meeting or workshop
Personal care or child care: more than four (4) hours	Actual up to hourly limit	\$15 per hour	An additional hourly rate of up to \$15 per hour will be paid for meetings and workshops etc that go beyond the four (4) hours engagement period referred to above

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<p>Use of private motor vehicle</p>	<p>Actual</p>	<p>Per km allowance as defined in the Local Government (State) Award 2017 for those km outside the Dubbo Regional Council local government area.</p>	<p>As defined in the Local Government (State) Award 2017 "Part 15(x) – Vehicle Allowances"</p> <p>Per km allowance as defined in the Local Government (State) Award 2017 for those kilometres outside the Dubbo Regional Council Local Government Area only.</p> <p>The following procedure is to be followed when claiming travel expenses when accepting invitations:</p> <ol style="list-style-type: none"> 1. Invitations are not to be accepted until assessed as below. 2. Councillors are to advise Council's Administration Officer – Mayor, that an invitation has been received and provide a copy of the invitation to Administration Officer – Mayor to forward to the Office of the Mayor. It is the Mayor's decision as to who Council's representative at the meeting/function will be. 3. The Mayor shall review the invitation and determine who the most appropriate Council representative would be for each individual circumstance. Mayor to advise Council's Administration Officer – Mayor, of his decision. 4. Council's Administration Officer – Mayor, will RSVP to the host of the invitation advising who shall attend on behalf of Council. 5. Council's Administration Officer – Mayor, will make any necessary arrangements for the attendance at the event by Council's representative. 6. Any claims for travel and use of private vehicles to attend these functions/meetings must be accompanied by a copy of the relevant invitation and approval from the Mayor's Office. <p>This procedure was circulated to Councillors by email on 30 October 2017 (ED17/129022).</p>
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PART 3 - TRAVELLING ON COUNCIL BUSINESS

3.1 Definition of Conference

In this part **conference** means conferences, seminars, congresses, forums, workshops, courses, meetings, deputations, information and training sessions, events etc related to the industry of local government and held within Australia.

Council is committed to ensuring its councillors are up to date with contemporary issues facing council and the community, and local government in NSW.

Council will allocate a sufficient amount annually in its budget to facilitate councillor attendance at conferences and seminars. This allocation is for all councillors. The Chief Executive Officer will ensure that access to expenses relating to conferences and seminars is distributed equitably.

Approval to attend a conference or seminar is subject to a written request to the Chief Executive Officer. In assessing a Councillor request, the Chief Executive Officer must consider factors including the:

- relevance of the topics and presenters to current council priorities and business and the exercise of the Councillor's civic duties
- cost of the conference or seminar in relation to the total remaining budget.

Council will meet the reasonable cost of registration fees, transportation and accommodation associated with attendance at conferences approved by the Chief Executive Officer with any necessary bookings to be made through the Chief Executive Officer's office. Council will also meet the reasonable cost of meals when they are not included in the conference fees. Reimbursement for accommodation and meals not included in the conference fees will be subject to this policy.

3.2 Who may attend conferences

Council will continue to be represented at the Annual Conference or Convention of the Associations as detailed hereunder, subject to appropriate funding provision being provided in the Council's Annual Budget and subject to the usual conditions. Attendance at conferences are to be approved by the Council with the Chief Executive Officer to approve attendances at seminars and conferences by staff.

ORGANISATION	DELEGATES	OBSERVERS
Local Government NSW	Mayor, or his nominee, two other Councillors as delegates plus an alternate delegate (to act as delegate if required) and Councillors as determined by the Council	Chief Executive Officer or Nominee and Councillors as determined by the Council
Australian Livestock Markets Association	Mayor, or his nominee, one Councillor and alternate Councillors determined by the Council	Chief Executive Officer or nominee and the Director Economic Development and Business
Australian Airport Association	Mayor, or his nominee, one Councillor and alternate Councillors determined by the Council	Chief Executive Officer or nominee and the Director Economic Development and Business
Local Government Women's Conference	Two Councillors and alternate Councillors determined by the Council	Chief Executive Officer or nominee
Local Government Aboriginal Network Conference	Two Councillors and alternate Councillors determined by the Council	Chief Executive Officer or nominee
Australian Local Government Association Conference	Mayor, or his nominee	Chief Executive Officer or nominee

Councillors may attend other conferences with the approval of Council.

3.3 Conference Costs

The following shall apply for the Mayor and Councillors authorised and/or appointed as delegates under this policy to attend conferences (as defined above):

3.3.1 Registration

The Council in accordance with 2.4 above, will pay all normal registration costs for delegates which are charged by organisers, including those relating to official luncheons, dinners and tours/inspections which are relevant to the interests of the Council.

3.3.2 Accommodation

In accordance with 2.4 above, Council will pay reasonable double room or twin share accommodation costs including the night before and/or after the conference where this is necessary because of travel and/or conference timetables.

3.3.3 Travel

In accordance with 2.4 above, the following travel provisions will apply:

- (a) All reasonable travel costs for delegates to and from the conference location and venue will be met by the Council. Where appropriate, travel will be provided by air (economy class). Depending upon the location or circumstances, it may be more appropriate for travel to be undertaken by car or train.
- (b) Where trains are used the Council will provide first class travel, including sleeping berths where available.
- (c) Where travel by motor vehicle is used it should be undertaken by Council vehicle where available, or by private vehicle subject to prior approval of the Chief Executive Officer.
- (d) Councillors using private vehicles (Councillor's own) in accordance with this policy may claim the kilometre rates for the necessary travel at the rate set by the Local Government State Award 2017 as at the date of travel with such rate deemed to cover and include any claims for accidental damage or repairs to the private vehicle and any loss of no claim bonus and any excess not covered by an insurance. This claim for kilometre allowance is subject to such claim not exceeding economy class air fares to and from the particular destination.
- (e) Where air travel is booked by Council for Councillors, Councillors shall not accrue frequent flyer points under the respective airlines program. This is considered a personal benefit.

3.4 Development Programs

Council will allocate a sufficient amount annually in its budget to facilitate professional development of councillors through programs, training, education courses and membership of professional bodies. An amount of \$30,000 will be allocated annually for Councillor Professional Development, being \$3,000 annually for each Councillor. This amount will be allocated for individual professional training plans for Councillors and any unexpended funds shall not be carried over to the following year. This allocation may be made available for individual training courses for Councillors or attendance at conferences where the conference directly relates to their role as a Councillor. Expenses incurred by Council without a reasonable excuse for non-attendance at related events, including but not limited to training sessions and conferences, by a Councillor may result in a possible reimbursement to Council by that Councillor for costs incurred.

In the first year of a new council term, Council will provide a comprehensive induction program for all councillors which considers any guidelines issued by the Office of Local Government (OLG). The cost of the induction program will be in addition to the ongoing professional development funding.

Annual membership of professional bodies will only be covered where the membership is relevant to the exercise of the Councillor's civic duties, the Councillor actively participates in the body and the cost of membership is likely to be fully offset by savings from attending events as a member.

Approval for professional development activities is subject to a prior written request to the Chief Executive Officer outlining the:

- details of the proposed professional development
- relevance to Council priorities and business
- relevance to the exercise of the Councillor's civic duties.

In assessing a Councillor request for a professional development activity, the Chief Executive Officer must consider the factors set out in this policy, as well as the cost of the professional development in relation to the available budget.

3.5 Out-of-Pocket Expenses

In accordance with 2.4 above, the following out of pocket expenses will apply:

- 3.5.1 So that Councillors, as delegates of the Council attending conferences are not financially disadvantaged, Councillors shall be entitled to claim "out-of-pocket" expenses.
- 3.5.2 The amount of the payment under Clause 3.5.1 shall be equal to reasonable costs substantiated by a tax invoice receipt or statutory declaration to the effect that the expenditure was incurred.
- 3.5.3 Such payment shall be made to cover incidental expenses associated with the conference attendance (and up to the relevant daily limits as per clause 2.4 herewith) such as:
- telephone, facsimile or internet usage. Council will meet the cost of telephone calls from the delegate to his/her family and to Council during the period of the conference. Other telephone expenses are to be paid for by the delegate;
 - breakfasts, lunches, dinners and other meals not included in the registration fee;
 - laundry - Council will meet the cost of reasonable laundry or dry cleaning services whilst at the conference, if necessary;
 - optional activities in a conference program where approved by the Chief Executive Officer;
 - gifts taken - If it is appropriate that gifts be required for presentations, Council will provide items as determined by the Chief Executive Officer.
 - gifts received - Council's Code of Conduct should be adhered to at all times. Any gifts received must be declared in Council's Gift Register.

The following items are expressly excluded from incidental expenses that will be funded by Council

- (i) bar fridge - Council **will not** meet the cost of any expenses incurred from the use of the bar fridge provided in the hotel room or snack food as provided by the bar fridge service.
- (ii) bar service - Council **will not** meet the cost of any expenses incurred at the bar located within the hotel other than where special guests have been invited for drinks at the request of the Mayor or leader of the Council's delegation or meals as provided for in 2.4.

3.5.4 An advance payment to the Councillor's bank account for "out-of-pocket" expenses under this clause may be paid, subject to any portion being refundable to the Council within seven (7) days of the conclusion of the conference if the actual period of attendance is less than that upon which the allowance was assessed. Any request for a cash advance must be completed on the attached form "Request for Cash Advance for the Purpose of Travelling on Council Business".

3.6 Conference Costs - Payment in Advance

3.6.1 The Council will normally pay registration fees, accommodation costs and airline/train tickets direct to conference organisers/travel agent in advance. Where this is not appropriate or possible an advance payment or cheque equivalent thereto may be paid to the attendee for payment to the appropriate party.

3.6.2 Any advance payments must be properly accounted for on the prescribed form within one (1) month after such conference.

3.7 Conference Costs - Delegates' Accompanying Person

3.7.1 Where the Mayor or a Councillor is accompanied at a conference all costs for, or incurred by, the accompanying person, including travel, breakfast, meals, registration and/or participation in any conference programs, are to be borne by the Councillor/accompanying person and not by the Council. The exception to this is that Council will meet the costs of the official conference dinner for an accompanying person of a Councillor for the Local Government NSW Annual Conference only. Accompanying person's registration, or accompanying person's program fees, are to be paid to the conference organiser, etc. and paid at the time of registration. The Council is prepared to receive such registration and payments and to forward them on to the conference organiser, etc with any Council delegates' registration.

3.7.2 Where the Council meets, on account, any expenditure or cost on behalf of an accompanying person attending a conference, such expenditure must be repaid to the Council by the Councillor/accompanying person within seven (7) days of being invoiced for such expenditure following the conclusion of the conference.

3.8 Local Functions

Where the Councillor attends local functions on behalf of Council, Council will be responsible for the payment of any fees for both the Councillor and their partner/accompanying person.

3.9 Overseas Travel

Overseas Travel for any purpose which is considered to be relevant to Council business and /or of particular benefit to the local community must be approved by Council. Full details of the travel and the purpose for the travel must be approved on an individual basis. The use of a tabled Mayoral Minute (not included on the Council Agenda) to obtain Council approval for travel is not considered appropriate as it is not consistent with principles of openness and transparency.

Retrospective re-imburement for overseas travel is not permitted.

After returning from overseas the Councillor, or an accompanying member of Council staff, must provide a detailed written report to Council on the aspects of the trip relevant to Council business and/or the local community.

In regard to Sister City Relationships the establishment of a Sister City Relationship will be on the basis that Council bear no cost of staff members, the Councillor or members of the public visiting Sister Cities, with the exception being in respect of the Sister Cities Officer as follows:

That Council fund the salary, travel and accommodation expenses for the Sister Cities Officer to undertake a visit to Minokamo and Wujiang every three years, with the first visit being within the first year of appointment of a new person to the position based upon the following conditions.

- *The visits to both Minokamo and Wujiang being combined during the one (1) overseas trip*
- *A maximum of seven (7) days is spent during any one (1) combined visit*
- *That the Sister City Officer be paid his /her normal salary for a maximum of seven (7) days during any one (1) visit*
- *An economy return air fare being provided from Dubbo to the Sister Cities*
- *The Sister City Officer being paid for subsistence and accommodation during any visit at Level One (1) of the Reasonable Travel Allowance for the Sydney Metropolitan Area as determined from time to time by the Australian Taxation Office and as detailed in Council's Management Policy – Travelling and Subsistence Expense Policy.*
- *Travel insurance, a visa to visit China and travel to and from airports to accommodation being funded by Council.*
- *Council not incurring any other incidental travel costs such as a passport, luggage, clothes, money conversion costs and travel debit / credit card costs.*

3.10 Care

Council will reimburse reasonable costs of care arrangements including childcare expenses and the care of elderly, disabled and/or sick immediate family members of Councillors to allow the Councillors to undertake their Council business obligations. Such costs will be certified by the Councillor to be necessarily incurred in the course of fulfilling their civic duties and/or conducting Council business.

3.11 Expenses Claim Approval

Any claim submitted to Council for reimbursement of expenses must be approved by the Executive Manager Governance and Internal Control having regard to appropriateness of the claim and regard to budget allocations. The Chief Executive Officer will then authorise the claim approval form.

3.12 Disputes Resolution

Any dispute relating to the administration of this Policy must be made in writing to the Chief Executive Officer detailing the grounds for the dispute.

Any such disputes will be referred to the next scheduled Ordinary Meeting of the Council for determination and resolution.

PART 4 - LEGAL ASSISTANCE

4.1 Legal and Representation Costs - Enquiries, Investigations, Hearings, etc

4.1.1 Council may, if requested, indemnify or 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 provided that the outcome of the legal proceedings is favourable to the Councillor
- a Councillor defending an action in defamation, provided the statements complained of were made in good faith in the course of exercising a function under the Act and the outcome of the legal proceedings is favourable to the Councillor
- a Councillor for proceedings before an appropriate investigative or review body, provided the subject of the proceedings arises from the performance in good faith of a function under the Act and the matter has proceeded past any initial assessment phase to a formal investigation or review and the investigative or review body makes a finding substantially favourable to the Councillor.

4.1.2 In the case of a code of conduct complaint made against a Councillor, legal costs will only be made available where the matter has been referred by the Chief Executive Officer to a conduct reviewer and the conduct reviewer has commenced a formal investigation of the matter and makes a finding substantially favourable to the Councillor.

4.1.3 Legal expenses incurred in relation to proceedings arising out of the performance by a Councillor of his or her functions under the Act are distinguished from expenses incurred in relation to proceedings arising merely from something that a Councillor has done during his or her term in office. For example, expenses arising from an investigation as to whether a Councillor acted corruptly would not be covered by this section.

4.1.4 Council will not meet the legal costs:

- of legal proceedings initiated by a Councillor under any circumstances
- of a Councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation
- for legal proceedings that do not involve a Councillor performing their role as a Councillor.

4.1.5 Reimbursement of expenses for reasonable legal expenses must have Council approval by way of a resolution at a Council meeting prior to costs being incurred.

4.2 Legal Advice

Legal advice relating to a pecuniary interest, conflict of interest or matter governed by the code of conduct which in the opinion of the Chief Executive Officer is necessary to clarify the Councillor's responsibilities in the performance of his/her duties will be provided and paid for by Council.

PART 5 - INSURANCES

5.1 Personal Accident Insurance

Council carries a personal accident insurance policy on Councillors of Council as set out hereunder.

On the lives of ten (10) Councillors whilst engaged on their duties as Councillors of the Dubbo Regional Council, including whilst travelling.

5.2 Professional Indemnity/Public Liability Insurance

- (i) General Liability – indemnify each insured person(s) for all costs, charges, expenses and defence costs **but** excluding **fin**es and **penalties** incurred in relation to any **prosecution** (criminal or otherwise) of any insured person(s), attendance by any insured person(s) at any official investigation, examination, inquiry or other proceedings ordered or commissioned during the period of insurance by any official body or institution that is empowered to investigate the affairs of the Council by reason of any **wrongful act** wherever or whenever committed or allegedly committed by the insured person(s) in their capacity as insured person(s), **BUT** subject to any limitations or conditions set out in the policy of insurance which is, at the direction of the Council.

- (ii) Professional Indemnity - for matters arising out of the Councillor's performance of civic duties or exercise of the functions provided the performance or exercise of the relevant civic duty or function is in the opinion of Council bona fide and/or proper and is carried out in good faith, as required under 731 of the Local Government Act, BUT subject to any limitation or conditions set out in the policy of insurance, which is, at the direction of Council, taken out.

5.3 Councillors' and Officers' Liability Insurance

Councillors' and Officers' Liability Insurance provides limited financial protection to Councillors and staff in circumstances where they may be named as an individual to a claim, and the normal protections under the Local Government Act or Council's General and Professional Liability insurance are not available.

The protection provided covers the liability to pay civil damages, the claimant's legal costs, and the Councillor's or staff member's costs incurred in the. The protection extends to the estate and heirs of a deceased Councillor or staff member.

PART 6 - ANNUAL FEES - MAYOR AND COUNCILLORS

6.1 Fees Payable to Councillors

Pursuant to Section 248 of the Act, the Council shall, prior to 30 June each year, set by resolution, the annual fees to be paid to a Councillor for the following year commencing 1 July, provided that such fee shall be within the range for the Council determined annually by the Local Government Remuneration Tribunal. Such payment shall be subject to Section 254A of the Regulations and any specific resolution of the Council under Section 254A.

6.2 Fees Payable to the Mayor

Pursuant to Section 249 of the Act, the Council shall, prior to 30 June each year, set by resolution, the annual fee to be paid to the Mayor for the following year commencing 1 July provided that such fee shall be within the range for the Council determined annually by the Local Government Remuneration Tribunal.

NOTE:

In accordance with the Australian Taxation Office Interpretative Decision 2007/205, Council may enter into an arrangement with a Councillor under which the Councillor agrees to forego all or part of their annual fee in exchange for the Council making contributions to a complying superannuation fund on their behalf.

PART 7 – PROCESSES

7.1 Approval, payment and reimbursement arrangements

- 7.1.1 Expenses should only be incurred by Councillors in accordance with the provisions of this policy.
- 7.1.2 Approval for incurring expenses, or for the reimbursement of such expenses, should be obtained before the expense is incurred.
- 7.1.3 Up to the maximum limits specified in this policy, approval for the following may be sought after the expense is incurred:
- local travel relating to the conduct of official business
 - carer costs
- 7.1.4 Final approval for payments made under this policy will be granted by the Chief Executive Officer or their delegate.

7.2 Direct payment

- 7.2.1 Council may approve and directly pay expenses. Requests for direct payment must be submitted to the Chief Executive Officer for assessment against this policy using the prescribed form, with sufficient information and time to allow for the claim to be assessed and processed.

7.3 Reimbursement

- 7.3.1 All claims for reimbursement of expenses incurred must be made on the prescribed form, supported by appropriate receipts and/or tax invoices and be submitted to the Chief Executive Officer.

7.4 Advance payment

- 7.4.1 Council may pay a cash advance for Councillors attending approved conferences, seminars or professional development.
- 7.4.2 The maximum value of a cash advance is \$100 per day of the conference, seminar or professional development to a maximum of \$500.
- 7.4.3 Requests for advance payment must be submitted to the Chief Executive Officer for assessment against this policy using the prescribed form with sufficient information and time to allow for the claim to be assessed and processed.
- 7.4.4 Councillors must fully reconcile all expenses against the cost of the advance within one month of incurring the cost and/or returning home. This includes providing to Council:
- a full reconciliation of all expenses including appropriate receipts and/or tax invoices
 - reimbursement of any amount of the advance payment not spent in attending to official business or professional development.

7.5 Notification

- 7.5.1 If a claim is approved, Council will make payment directly or reimburse the Councillor through accounts payable.
- 7.5.2 If a claim is refused, Council will inform the Councillor in writing that the claim has been refused and the reason for the refusal.

7.6 Reimbursement to Council

- 7.6.1 If Council has incurred an expense on behalf of a Councillor that exceeds a maximum limit, exceeds reasonable incidental private use or is not provided for in this policy:
- Council will invoice the Councillor for the expense
 - the Councillor will reimburse Council for that expense within 14 days of the invoice date.
- 7.6.2 If the Councillor cannot reimburse Council within 14 days of the invoice date, they are to submit a written explanation to the Chief Executive Officer. The Chief Executive Officer may elect to deduct the amount from the Councillor's allowance.

7.7 Timeframe for reimbursement

- 7.7.1 Unless otherwise specified in this policy, Councillors must provide all claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved.

DRAFT

DUBBO REGIONAL COUNCIL
EXPENSES OF MEMBERS OF COUNCIL
(Local Government Act, 1993)
Section 252

NAME: _____ DATE: _____

NOTES:

1. Claim to be submitted in accordance with Council's Policy – Payment of Expenses and Provision of Facilities for the Mayor and Councillors.
2. Expenses claimed must be substantiated by Tax Invoice/Receipts or Statutory Declaration (see over).

TRAVELLING EXPENSES

Date	Meeting/Function	Distance Travelled Outside of DRC Boundaries:
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Total distance claimable: _____ km @ _____ ¢ per km

Engine size _____ cc (office use) \$ _____ (office use)

OUT OF POCKET EXPENSES

Function/Occasion: _____

Date: _____

Summary of Expenses claimed:

_____ \$ _____
_____ \$ _____
_____ \$ _____

TOTAL PAYABLE \$ _____ (office use)

Name of Claimant: _____

Signature of Claimant: _____ Date: _____

Payment Approved _____ EXECUTIVE MANAGER GOVERNANCE AND INTERNAL CONTROL

Payment Authorised _____ CHIEF EXECUTIVE OFFICER

Cost Number _____

NOTE: Reimbursement of travel expenses must be accompanied by the relevant approvals from the Mayor's office

STATUTORY DECLARATION

(1) Here insert name, address and occupation of person making the declaration

I, (1) (Name)
(Address)
.....
(Occupation)

(2) Here insert matter declared to. Where the matter is long, add the words "as follows:" and then set the matter out in numbered paragraphs.

do solemnly and sincerely declare (2)

I make this solemn declaration by virtue of the *Statutory Declarations Act 1959* as amended and subject to the penalties provided by that Act for the making of false statements in statutory declarations, conscientiously believing the statements contained in this declaration to be true in every particular.

(3) Signature of person making the declaration.

(3).....

Declared at (place)

on (date)

before me (in the presence of),

(4) Signature of person before whom the declaration is made.

(4)

(5) Here insert title of person before whom the declaration is made.

(5)

NOTE 1.-A person who wilfully makes a false statement in a statutory declaration under the *Statutory Declarations Act 1959* as amended is guilty of an offence against that Act, the punishment for which is a fine not exceeding \$200 or imprisonment for a term not exceeding six months or both if the offence is prosecuted summarily, or imprisonment for a term not exceeding four years if the offence is prosecuted upon indictment.

NOTE 2.-A statutory declaration may be made before a Magistrate, a Justice of the Peace, a Commissioner for Affidavits, a Commissioner for Declarations, a Notary Public, a person before whom a statutory declaration may be made under the law of the State in which the declaration is made, an Australian Consular Officer or an Australian Diplomatic Officer as defined by section two of the *Consular Fees Act 1995*, a chiropractor, a dentist, a legal practitioner, a medical practitioner, a nurse, a patent attorney, a pharmacist, a veterinary surgeon, an agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public, a bailiff, a bank officer with five or more years of continuous service, a building society officer with five or more years of continuous service, the chief executive officer of a Commonwealth court, a civil marriage celebrant, the clerk of a court, a credit union officer with five or more years of continuous service, the holder of a statutory office, the Judge of a court, the Master of a court, a member of the Australian Defence Force who is an officer or a non-commissioned officer within the meaning of the *Defence Force Discipline Act 1982* with five or more years continuous service or a warrant officer within the meaning of the Act, a member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants, a member of the Institute of Corporate Managers, Secretaries and Administrators, a member of the Institution of Engineers, Australia other than at the grade of student, a member of the Parliament of the Commonwealth, the Parliament of a State, a Territory legislature or a local government authority of a State or Territory, a minister of religion registered under Division 1 of Part IV of the *Marriage Act 1961*, a permanent employee of the Commonwealth or of a Commonwealth authority or a State or Territory or of a State or Territory authority or a local government authority with five or more years continuous service, a permanent employee of the Australian Postal Corporation with five or more years continuous service who is employed in an office supplying postal services to the public, a police officer, the Registrar or Deputy Registrar of a court, a Senior Executive Service officer of the Commonwealth or of a State or Territory or of a Commonwealth, State or Territory authority, a Sheriff, a Sheriff's officer, or a teacher employed on a full-time basis at a school or tertiary education institution.

DUBBO REGIONAL COUNCIL

REQUEST FOR CASH ADVANCE FOR THE PURPOSE OF TRAVELLING ON COUNCIL BUSINESS

(THIS FORM MUST BE SUBMITTED TO EXECUTIVE MANAGER GOVERNANCE AND INTERNAL CONTROL A MINIMUM OF SEVEN (7) WORKING DAYS PRIOR TO REQUIRED DATE TO ENSURE PAYMENT OF ADVANCE IS RECEIVED BY REQUIRED TIME)

NAME: _____ DATE: _____

PURPOSE OF TRAVEL: _____

START DATE: _____ END DATE: _____

AMOUNT OF CASH ADVANCE REQUESTED: \$ _____
(Maximum Cash Advance Request = \$100 per day)

BANK ACCOUNT DETAILS FOR CASH ADVANCE

Name of Account: _____

Bank Name: _____

BSB: _____ Account Number: _____

I understand that this is an application for a cash advance for the purpose of travelling on Council business. I agree to return any monies not spent from this cash advance and to provide tax invoices/receipts to justify any expenditure incurred from this advance.

Signed: _____ Date: _____

Payment Authorised: _____

Chief Executive Officer



REPORT: Options for the Appointment of an Independent Investigator

AUTHOR: Chief Executive Officer
REPORT DATE: 29 April 2021
TRIM REFERENCE: ID21/707

EXECUTIVE SUMMARY

Council, at its Extraordinary meeting held on 12 April 2021, resolved, in part:

“7. That a report be prepared for the 3 May 2021 Ordinary meeting of Council advising on options for the appointment of an independent investigator.”

This report outlines Dubbo Regional Council’s (Council) policies and procedures that are in place to manage code of conduct complaints, and will also address the proposed multi-dimensional approach to:

1. Review the complaints procedures that have been received over the past three and a half years; and
2. Address the engagement of an independent advisor to assist Council in potential future code of conduct complaints.

Council has also since 25 March 2021, engaged an independent firm O’Connor Marsden and Associates Pty Ltd to manage and investigate complaints currently being received.

It is proposed that Council engage three separate independent companies to assist with the management of Code of Conduct complaints. This will address:

1. Reviewing previous complaints;
2. Managing and investigating current complaints; and
3. Provide an avenue for future complaints.

FINANCIAL IMPLICATIONS

There are no provisions in Council’s current budget for an independent investigator. Funds allocated for code of conduct matters have been expended.

POLICY IMPLICATIONS

Council’s handling of code of conduct complaints is in line with Code of Conduct Policy (**Appendix 1**) and Procedures for the Administration of the Code of Conduct (**Appendix 2**).

RECOMMENDATION

That the information contained within the report of the Chief Executive Officer, dated 29 April 2021, be noted.

Dean Frost
Chief Executive Officer

BACKGROUND

Council has policies and procedures in place to deal with code of conduct complaints. These policies and procedures follow the Model Code of Conduct and the Model Procedures for the Administration for the Code of Conduct released by the Office of Local Government (OLG) and are updated accordingly.

From September 2017 through to 24 March 2021, a total of 28 code of conduct matters and complaints were made against councillors by members of the public, staff and other councillors. Of these complaints, 16 were referred to approved, external conduct reviewers; 12 complaints were dealt with under Chief Executive Officer's (CEO) delegation in accordance with the Procedures for the Administration of the Code of Conduct (the Procedures), as attached at **Appendix 2**.

On the 31 March 2021, Councillors made a public call to the community to come forward with any complaints in relation to the Mayor or Councillors.

REPORT

This report will address the proposed options to engage a number of independent investigators to address and review complaints from a past, current and future perspective.

Past Complaints

Council has recently reported on previous code of conduct matters, being those received from the beginning of the current council term until 24 March 2021 (28 complaints have been received). Each of these matters has been completed.

Council has broad discretions to manage complaints. Between the Local Government Act and the Procedures for the Administration of the Code of Conduct, these matters are finalised.

In discussions with the Office of Local Government (OLG), Council will undertake a process to complete a review of those complaints that have already been finalised. This will be limited to a systemic review of the outcomes and Council's management of those. Where appropriate, matters may be referred to the Office of Local Government for review. Also, this review will provide advice as to any potential improvements in our complaints handling system. Council has received recommendations by Local Government NSW as to an appropriate third party to conduct such a review, and intends to engage one of the recommended parties.

There is a heightened focus on Council's code of conduct complaints and processes at present, with an unprecedented number of complaints being received. This situation is constantly evolving and there have been many discussions with the OLG to ensure Council's processes are robust, and how best to approach a review.

Future Complaints

Council is reviewing suitable companies to engage for advice and guidance with respect to complaints in the immediate future. This will encompass engaging an independent advisor to review the complaints and provide guidance to the Chief Executive Officer to make decisions as per the procedure for the administration of the Code of Conduct. This will provide objective advice to the Chief Executive Officer to either:

1. Refer a matter to a Conduct Reviewer;
2. Deal with the matter by alternative means; or
3. Decline to proceed with the matter as a Code of Conduct complaint.

Council will engage a suitably qualified independent advisor in the coming weeks.

Current Complaints

With the guidance of the OLG, Council has put additional processes in place to increase objectivity when receiving and assessing code of conduct complaints, and to manage the volume of complaints being received currently. Accordingly, council has engaged O'Connor Marsden & Associates Pty Ltd (OCM), who are industry leaders in independent workplace investigations across a number of specialities including local government and code of conduct management.

OCM is an advisory and assurance provider specialising in workplace conduct and risk; governance and risk compliance; probity; assurance; and procurement. They work across a number of sectors, with one speciality being Local Government and Municipalities. OCM is an experienced provider of independent workplace investigations. The investigators with OCM have a diverse range of experience, including involvement with the Independent Commission Against Corruption (ICAC) and the Police Force.

Since March 2021, Council has received 23 code of conduct complaints. Each of these complaints has been reviewed, with 10 referred to Council's independent investigators, OCM, in the first instance for preliminary review. This external leader in investigations has determined how each individual complaint should be managed, either:

- Referral back to the CEO to resolve within the parameters of Part 5 of Council's Procedures for the Administration of the Code of Conduct (the Procedures); the Procedures allow the CEO to decline matters, take no action, or resolve complaints by alternative means where certain circumstances are met; or
- Being taken through preliminary investigation by OCM, and onto full investigation in applicable cases.

SUMMARY

Since March 2021, Council has received 23 code of conduct complaints. Each of these complaints has been referred to independent investigators at O'Connor Marsden & Associates.

Council is currently reviewing suitable independent third parties to provide advice and guidance with regards to any future complaints for the immediate future.

Review of any complaints prior to March 2021 has already been finalised and is limited to a systemic review of the outcomes and Council's management of those. Local Government NSW has provided recommendations for the engagement of an independent third party to complete this process.

Council has elected to engage three separate, independent companies to assist with the review of code of conduct complaints. This is seen as the best way of ensuring transparency and impartiality.

Appendices:

- 1 [↓](#) Council Policy - Code of Conduct
- 2 [↓](#) Council Policy - Procedures for the Administration of the DRC Code of Conduct



COUNCIL POLICY

CODE OF CONDUCT POLICY

Date	1 October 2020
Council Resolution Date	7 December 2020
Clause Number	CCL20/217
Responsible Position	Executive Manager – Governance and Internal Control
Branch	Governance and Internal Control
Division	Executive Services
Version	2.0
TRIM Reference Number	ED20/223019
Review Period	Two (2) years
Next Review Date	October 2022
Consultation	Not applicable

Document Revision History	
Description	Date
Adopted by Council	7/12/2020
Revision	
Adopted by Council	

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PART 1 INTRODUCTION

This Code of Conduct is based on the Model Code of Conduct published by the Office of Local Government.

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

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

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

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

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

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

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

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

PART 2 DEFINITIONS

In this code the following terms have the following meanings:

LGA	the <i>Local Government Act 1993</i>
Administrator	an Administrator of a Council appointed under the LGA other than an Administrator appointed under section 66
committee	see the definition of "Council committee"
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures.
Council committee	a committee established by a Council comprising of Councillors, staff or other persons that the Council has delegated functions to and the Council's audit, risk and improvement committee.
Council committee member	a person other than a Councillor or member of staff of a Council who is a member of a Council committee other than a wholly advisory committee, an a person other than a Councillor who is a member of the Council's audit, risk and improvement committee.
Council official	includes Councillors, members of staff of a Council, Administrators, Council committee members, delegates of Council and, for the purposes of clause 4.16, Council advisers
Councillor	any person elected or appointed to civic office, including the Mayor
conduct	includes acts and omissions
delegate of Council	a person (other than a Councillor or member of staff of a Council) or body, and the individual members of that body, to whom a function of the Council is delegated

designated person	a person referred to in clause 4.8
election campaign	includes Council, state and federal election campaigns
environmental planning instrument	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>
local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
the Office	Office of Local Government
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
the Regulation	the Local Government (General) Regulation 2005
wholly advisory committee	a Council committee that the Council has not delegated any functions to

PART 3 GENERAL CONDUCT OBLIGATIONS

General conduct

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

Fairness and equity

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

Harassment and discrimination

- 3.6 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status) sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity, or intersex status or political, religious or other affiliation.

- 3.7 For the purposes of this code, "harassment" is any form of behaviour towards a person that:
- a) is not wanted by the person
 - b) offends, humiliates or intimidates the person, and
 - c) creates a hostile environment.

Bullying

- 3.8 You must not engage in bullying behaviour towards others.

- 3.9 For the purposes of this code, "bullying behaviour" is any behaviour in which:
- a) a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons, and
 - b) the behaviour creates a risk to health and safety.

- 3.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- a) aggressive, threatening or intimidating conduct
 - b) belittling or humiliating comments
 - c) spreading malicious rumours
 - d) teasing, practical jokes or 'initiation ceremonies'
 - e) exclusion from work-related events
 - f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
 - g) displaying offensive material
 - h) pressure to behave in an inappropriate manner.

- 3.11 Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:
- a) performance management processes
 - b) disciplinary action for misconduct
 - c) informing a worker about unsatisfactory work performance or inappropriate work behaviour
 - d) directing a worker to perform duties in keeping with their job
 - e) maintaining reasonable workplace goals and standards
 - f) legitimately exercising a regulatory function
 - g) legitimately implementing a Council policy or administrative processes.

Work health and safety

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

- a) take reasonable care for your own health and safety
- b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
- c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WH&S Act and any policies or procedures adopted by the Council to ensure workplace health and safety
- d) cooperate with any reasonable policy or procedure of the Council relating to workplace health or safety that has been notified to Council staff
- e) report accidents, incidents, near misses, to the Chief Executive Officer or such other staff member nominated by the Chief Executive Officer, and take part in any incident investigations
- f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WH&S Act in relation to the same matter.

Land use planning, development assessment and other regulatory functions

3.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.

3.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

Binding caucus votes

3.15 You must not participate in binding caucus votes in relation to matters to be considered at a Council or committee meeting.

3.16 For the purposes of clause 3.16, a binding caucus vote is a process whereby a group of Councillors are compelled by a threat of disciplinary or other adverse

action to comply with a predetermined position on a matter before the Council or committee, irrespective of the personal views of individual members of the group on the merits of the matter before the Council or committee.

- 3.17 Clause 3.16 does not prohibit Councillors from discussing a matter before the Council or committee prior to considering the matter in question at a Council or committee meeting, or from voluntarily holding a shared view with other Councillors on the merits of a matter.
- 3.18 Clause 3.16 does not apply to a decision to elect the Mayor or deputy Mayor, or to nominate a person to be a member of a Council committee or a representative of the Council on an external body.

Obligations in relation to meetings

- 3.19 You must comply with rulings by the chair at Council and committee meetings or other proceedings of the Council unless a motion dissenting from the ruling is passed.
- 3.20 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other Council officials or any members of the public present during Council or committee meetings or other proceedings of the Council (such as, but not limited to, workshops and briefing sessions).
- 3.21 You must not engage in conduct that disrupts Council or committee meetings or other proceedings of the Council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.
- 3.22 If you are a Councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the Council, or of a committee of the Council. Without limiting this clause, you must not:
- a) leave a meeting of the Council or a committee for the purposes of depriving the meeting of a quorum, or
 - b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another Councillor from submitting a rescission motion with respect to the same decision, or
 - c) deliberately seek to impede the consideration of business at a meeting.

PART 4 PECUNIARY INTERESTS

What is a pecuniary interest?

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- (a) your interest, or
 - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - (c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- (a) Your "relative" is any of the following:
 - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - ii) your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
 - (b) "de facto partner" has the same meaning as defined in section 21C of the *Interpretation Act 1987*.
- 4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):
- (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
 - (b) just because the person is a member of, or is employed by, a Council or a statutory body, or is employed by the Crown, or
 - (c) just because the person is a member of, or a delegate of a Council to, a company or other body that has a pecuniary interest in the

matter, so long as the person has no beneficial interest in any shares of the company or body.

What interests do not have to be disclosed?

- 4.6 You do not have to disclose the following interests for the purposes of this Part:
- (a) your interest as an elector
 - (b) your interest as a ratepayer or person liable to pay a charge
 - (c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this code
 - (d) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this code
 - (e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
 - (f) if you are a Council committee member, an interest you have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if you have been appointed to represent the organisation or group on the Council committee
 - (g) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
 - (h) an interest you have arising from the proposed making by the Council of an agreement between the Council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
 - (i) an interest you have arising from the making by the Council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the Council in respect of similar matters with other residents of the area:

- i) the performance by the Council at the expense of your relative of any work or service in connection with roads or sanitation
- ii) security for damage to footpaths or roads
- iii) any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council, or by or under any contract
- (j) an interest relating to the payment of fees to Councillors (including the Mayor and deputy Mayor)
- (k) an interest relating to the payment of expenses and the provision of facilities to Councillors (including the Mayor and deputy Mayor) in accordance with a policy under section 252 of the LGA,
- (l) an interest relating to an election to the office of Mayor arising from the fact that a fee for the following 12 months has been determined for the office of Mayor
- (m) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
- (n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Councillor or a Council committee member
- (o) an interest arising from the appointment of a Councillor to a body as a representative or delegate of the Council, whether or not a fee or other recompense is payable to the representative or delegate.

4.7 For the purposes of clause 4.6, "relative" has the same meaning as in clause 4.4, but includes your spouse or de facto partner.

What disclosures must be made by a designated person?

4.8 Designated persons include:

- (a) the Chief Executive Officer
- (b) other senior staff of the Council for the purposes of section 332 of the LGA
- (c) a person (other than a member of the senior staff of the Council) who is a member of staff of the Council or a delegate of the Council and who holds a position identified by the Council as the position of a designated person because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest
- (d) a person (other than a member of the senior staff of the Council) who is a member of a committee of the Council identified by the Council as a committee whose members are designated persons because

the functions of the committee involve the exercise of the Council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

- 4.9 A designated person:
- (a) must prepare and submit written returns of interests in accordance with clauses 4.21, and
 - (b) must disclose pecuniary interests in accordance with clause 4.10.
- 4.10 A designated person must disclose in writing to the Chief Executive Officer (or if the person is the Chief Executive Officer, to the Council) the nature of any pecuniary interest the person has in any Council matter with which the person is dealing as soon as practicable after becoming aware of the interest.
- 4.11 Clause 4.10 does not require a designated person who is a member of staff of the Council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.
- 4.12 The Chief Executive Officer must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.
- 4.13 A disclosure by the Chief Executive Officer must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the Council and the Council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

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

- 4.14 A member of staff of Council, other than a designated person, must disclose in writing to their manager or the Chief Executive Officer the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.

- 4.15 The staff member's manager or the Chief Executive Officer must, on receiving a disclosure under clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by Council advisers?

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

What disclosures must be made by a Council committee member?

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

What disclosures must be made by a Councillor?

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

Disclosure of interests in written returns

- 4.21 A Councillor or designated person must make and lodge with the Chief Executive Officer a return in the form set out in schedule 2 to this code, disclosing the Councillor's or designated person's interests as specified in schedule 1 to this code within 3 months after:
- (a) becoming a Councillor or designated person, and
 - (b) 30 June of each year, and

- (c) the Councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).
- 4.22 A person need not make and lodge a return under clause 4.21, paragraphs (a) and (b) if:
 - (a) they made and lodged a return under that clause in the preceding 3 months, or
 - (b) they have ceased to be a Councillor or designated person in the preceding 3 months.
- 4.23 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 4.24 The Chief Executive Officer must keep a register of returns required to be made and lodged with the Chief Executive Officer.
- 4.25 Returns required to be lodged with the Chief Executive Officer under clause 4.21(a) and (b) must be tabled at the first meeting of the Council after the last day the return is required to be lodged.
- 4.26 Returns required to be lodged with the Chief Executive Officer under clause 4.21(c) must be tabled at the next Council meeting after the return is lodged.
- 4.27 Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

Disclosure of pecuniary interests at meetings

- 4.28 A Councillor or a Council committee member who has a pecuniary interest in any matter with which the Council is concerned, and who is present at a meeting of the Council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.29 The Councillor or Council committee member must not be present at, or in sight of, the meeting of the Council or committee:
 - (a) at any time during which the matter is being considered or discussed by the Council or committee, or
 - (b) at any time during which the Council or committee is voting on any question in relation to the matter.

- 4.30 A disclosure made at a meeting of a Council or Council committee must be recorded in the minutes of the meeting.
- 4.31 A general notice may be given to the Chief Executive Officer in writing by a Councillor or a Council committee member to the effect that the Councillor or Council committee member, or the Councillor's or Council committee member's spouse, de facto partner or relative, is:
- (a) a member of, or in the employment of, a specified company or other body, or
 - (b) a partner of, or in the employment of, a specified person.
- Such a notice is, unless and until the notice is withdrawn or until the end of the term of the Council in which it is given (whichever is the sooner), sufficient disclosure of the Councillor's or Council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the Council or Council committee after the date of the notice.
- Notwithstanding this notice, a Councillor or committee member must still declare this interest during the relevant section of the respective meeting detailing the reason for their interest.
- 4.32 A Councillor or a Council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the Councillor or Council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.33 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.34 Despite clause 4.29, a Councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.35 Clause 4.29 does not apply to a Councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- (a) the matter is a proposal relating to:
 - (i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the Council's area, or
 - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the Council's area, and

- (b) the pecuniary interest arises only because of an interest of the Councillor in the Councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and
- (c) the Councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.

4.36 A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:

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

4.37 The Minister for Local Government may, conditionally or unconditionally, allow a Councillor or a Council committee member who has a pecuniary interest in a matter with which the Council is concerned to be present at a meeting of the Council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- (a) that the number of Councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- (b) that it is in the interests of the electors for the area to do so.

4.38 A Councillor or a Council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the Council or committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.38, must still disclose the interest they have in the matter in accordance with clause 4.28.

PART 5 NON-PECUNIARY CONFLICTS OF INTEREST

What is a non-pecuniary conflict of interest?

- 5.1 Non-pecuniary interests are private or personal interests a Council official has that do not amount to a pecuniary interest as defined in clause 4.1 of this code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- 5.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- 5.3 The personal or political views of a Council official do not constitute a private interest for the purposes of clause 5.2.
- 5.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of Council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this code.
- 5.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of Council staff other than the Chief Executive Officer, such a disclosure is to be made to the staff member's manager. In the case of the Chief Executive Officer, such a disclosure is to be made to the Mayor.
- 5.7 If a disclosure is made at a Council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion

on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.

- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
- a) a relationship between a Council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the Council official's extended family that the Council official has a close personal relationship with, or another person living in the same household
 - b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
 - c) an affiliation between the Council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a Council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
 - d) membership, as the Council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the Council and the organisation are potentially in conflict in relation to the particular matter
 - e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
 - f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.
- 5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:
- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or

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

Political donations

- 5.15 Councillors should be aware that matters before Council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.
- 5.16 Where you are a Councillor and have received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
 - b) the major political donor has a matter before Council,
- you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A

disclosure made under this clause must be recorded in the minutes of the meeting.

5.17 For the purposes of this Part:

- a) a "reportable political donation" has the same meaning as it has in section 6 of the *Electoral Funding Act 2018*
- b) "major political donor" has the same meaning as it has in the *Electoral Funding Act 2018*.

5.18 Councillors should note that political donations that are not a "reportable political donation", or political donations to a registered political party or group by which a Councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of clause 5.9 and take the appropriate action to manage them.

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

Loss of quorum as a result of compliance with this Part

5.20 A Councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:

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

5.21 The Minister for Local Government may, conditionally or unconditionally, allow a Councillor or a Council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the

Council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- a) that the number of Councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- b) that it is in the interests of the electors for the area to do so.

5.22 Where the Minister exempts a Councillor or committee member from complying with a requirement under this Part under clause 5.21, the Councillor or committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

Other business or employment

5.23 The Chief Executive Officer must not engage, for remuneration, in private employment, contract work or other business outside the service of the Council without the approval of the Council.

5.24 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the Council that relates to the business of the Council or that might conflict with the staff member's Council duties unless they have notified the Chief Executive Officer in writing of the employment, work or business and the Chief Executive Officer has given their written approval for the staff member to engage in the employment, work or business.

5.25 The Chief Executive Officer may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the Council that relates to the business of the Council, or that might conflict with the staff member's Council duties.

5.26 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the Council if prohibited from doing so.

5.27 Members of staff must ensure that any outside employment, work or business they engage in will not:

- a) conflict with their official duties
- b) involve using confidential information or Council resources obtained through their work with the Council including where private use is permitted
- c) require them to work while on Council duty
- d) discredit or disadvantage the Council

- e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

Personal dealings with Council

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

PART 6 PERSONAL BENEFIT

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

Gifts and benefits

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

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

- 6.5 You must not:
- a) seek or accept a bribe or other improper inducement
 - b) seek gifts or benefits of any kind
 - c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
 - d) subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9
 - e) accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
 - f) participate in competitions for prizes where your attendance at an event (including conferences, workshops, meetings) is in the capacity of representing Council.
 - g) accept any gift, benefit or prizes where your attendance at an event (including conferences, workshops, meetings) is in the capacity of representing Council.
 - h) personally benefit from reward points programs when purchasing on behalf of the Council.
- 6.6 Where you receive, or are offered, a gift or benefit of any value other than one referred to in clause 6.2, you must disclose this promptly to your manager or the Chief Executive Officer in writing. The recipient, manager, or Chief Executive Officer must ensure that, at a minimum, the following details are recorded in the Council's gift register:
- a) the nature of the gift or benefit
 - b) the estimated monetary value of the gift or benefit
 - c) the name of the person who provided the gift or benefit, and
 - d) the date on which the gift or benefit was received.

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

Gifts and benefits of token value

- 6.8 Dubbo Regional Council has adopted a policy that does not allow for the acceptance of any gift or benefit, unless rare and extenuating circumstances present or refusal may offend. On such an occasion, gifts that do not exceed \$50 in value are to be immediately surrendered in accordance with clause 6.7 unless approved by the Chief Executive Officer.

Gifts and benefits of more than token value

Gifts or benefits that exceed \$50 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) and, subject to clause 6.7, must not be accepted.

- 6.9 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$50, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.
- 6.10 Where you have accepted a gift or benefit of token value from a person or organisation subject to clause 6.8, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$50 in value.
- 6.11 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

"Cash-like gifts"

- 6.12 For the purposes of clause 6.5(e), "cash-like gifts" include but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as

phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

Improper and undue influence

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

PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALS

Obligations of Councillors and Administrators

Each Council is a body politic. The Councillors or Administrator/s are the governing body of the Council. Under section 223 of the LGA, the role of the governing body of the Council includes the development and endorsement of the strategic plans, programs, strategies and policies of the Council, including those relating to workforce policy, and to keep the performance of the Council under review.

7.1 Councillors or Administrators must not:

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

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

Obligations of staff

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

7.4 Members of staff of Council must:

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

Inappropriate interactions

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

- a) Councillors and Administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- b) Council staff approaching Councillors and Administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- c) subject to clause 8.6, Council staff refusing to give information that is available to other Councillors to a particular Councillor
- d) Councillors and Administrators who have lodged an application with the Council, discussing the matter with Council staff in staff-only areas of the Council
- e) Councillors and Administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the Councillor or Administrator has a right to be heard by the panel at the meeting
- f) Councillors and Administrators being overbearing or threatening to Council staff
- g) Council staff being overbearing or threatening to Councillors or Administrators
- h) Councillors or Administrators making personal statements or attacks on Council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums, **including social media**

- i) Council staff making personal statements or attacks on Councillors or Administrators or engaging in conduct towards Councillors or Administrators that would be contrary to the general conduct provisions in Part 3 of this code in public forums, **including social media**
- j) Councillors and Administrators directing or pressuring Council staff in the performance of their work, or recommendations they should make
- k) Council staff providing ad hoc advice to Councillors and Administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- l) Council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
- m) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the Council associated with current or proposed legal proceedings unless permitted to do so by the Council's Chief Executive Officer or, in the case of the Mayor or Administrator, unless they are exercising their functions under section 226 of the LGA.

PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES

Councillor and Administrator access to information

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

Councillors and Administrators to properly examine and consider information

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

Refusal of access to information

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

Use of certain Council information

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

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

Use and security of confidential information

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

8.11 In addition to your general obligations relating to the use of Council information, you must:

- a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
- b) protect confidential information
- c) only release confidential information if you have authority to do so
- d) only use confidential information for the purpose for which it is intended to be used
- e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person

- f) not use confidential information with the intention to cause harm or detriment to the Council or any other person or body
- g) not disclose any confidential information discussed during a confidential session of a Council or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

Personal information

8.12 When dealing with personal information you must comply with:

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

Use of Council resources

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

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

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

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

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

- 8.17 You must not use Council resources (including Council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 8.18 You must not use the Council letterhead, Council crests, Council email or social media or other information that could give the appearance it is official Council material:
- a) for the purpose of assisting your election campaign or the election campaign of others, or
 - b) for other non-official purposes.
- 8.19 You must not convert any property of the Council to your own use unless properly authorised.

Internet access

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

Council record keeping

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

records, you must do so in consultation with the Council's records manager and comply with the requirements of the *State Records Act 1998*.

Councillor access to Council buildings

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

PART 9 MAINTAINING THE INTEGRITY OF THIS CODE

Complaints made for an improper purpose

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

Detrimental action

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

- d) dismissal from, or prejudice in, employment
- e) disciplinary proceedings.

Compliance with requirements under the Procedures

- 9.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.
- 9.8 You must comply with a practice ruling made by the Office under the Procedures.

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

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

Complaints alleging a breach of this Part

- 9.14 Complaints alleging a breach of this Part by a Councillor, the Chief Executive Officer or an Administrator are to be managed by the Office. This clause does

not prevent the Office from referring an alleged breach of this Part back to the Council for consideration in accordance with the Procedures.

9.15 Complaints alleging a breach of this Part by other Council officials are to be managed by the Chief Executive Officer in accordance with the Procedures.

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

Part 1: Preliminary

Definitions

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

address means:

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

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

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

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

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

interest means:

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

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

occupation includes trade, profession and vocation.

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

property includes money.

return date means:

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

relative includes any of the following:

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

travel includes accommodation incidental to a journey.

Matters relating to the interests that must be included in returns

2. *Interests etc. outside New South Wales:* A reference in this schedule or in schedule 2 to a disclosure concerning a corporation or other thing includes any reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.
3. *References to interests in real property:* A reference in this schedule or in schedule 2 to real property in which a Councillor or designated person has an interest includes a reference to any real property situated in Australia in which the Councillor or designated person has an interest.
4. *Gifts, loans etc. from related corporations:* For the purposes of this schedule and schedule 2, gifts or contributions to travel given, loans made, or goods or services supplied, to a Councillor or designated person by two or more corporations that are related to each other for the purposes of section 50 of the *Corporations Act 2001* of the Commonwealth are all given, made or supplied by a single corporation.

Part 2: Pecuniary interests to be disclosed in returns

Real property

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

Gifts

9. A person making a return under clause 4.21 of this code must disclose:
 - a) a description of each gift received in the period since 30 June of the previous financial year, and
 - b) the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
 - a) it did not exceed \$500, unless it was among gifts totalling more than \$500 made by the same person during a period of 12 months or less, or
 - b) it was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
 - c) the donor was a relative of the donee, or
 - d) subject to paragraph (a), it was received prior to the person becoming a Councillor or designated person.

11. For the purposes of clause 10 of this schedule, the amount of a gift other than money is an amount equal to the value of the property given.

Contributions to travel

12. A person making a return under clause 4.21 of this code must disclose:

- a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
- b) the dates on which the travel was undertaken, and
- c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.

13. A financial or other contribution to any travel need not be disclosed under this clause if it:

- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or Council vehicles), or
- b) was made by a relative of the traveller, or
- c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
- d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
- e) was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
- f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
- g) subject to paragraph (d) it was received prior to the person becoming a Councillor or designated person.

14. For the purposes of clause 13 of this schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

Interests and positions in corporations

15. A person making a return under clause 4.21 of this code must disclose:

- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and

- b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
- c) the nature of the interest, or the position held, in each of the corporations, and
- d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.

16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:

- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
- b) required to apply its profits or other income in promoting its objects, and
- c) prohibited from paying any dividend to its members.

17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.

18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a Councillor or designated person.

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

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

20. For the purposes of clause 19 of this schedule:

close associate, in relation to a corporation or an individual, has the same meaning as it has in section 53 of the *Electoral Funding Act 2018*.

property developer has the same meaning as it has in Division 7 of Part 3 of the *Electoral Funding Act 2018*.

Positions in trade unions and professional or business associations

21. A person making a return under clause 4.21 of the code must disclose:

- a) the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and
- b) the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
- c) a description of the position held in each of the unions and associations.

22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a Councillor or designated person.

Dispositions of real property

23. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.

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

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

Sources of income

26. A person making a return under clause 4.21 of this code must disclose:

- a) each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
- b) each source of income received by the person in the period since 30 June of the previous financial year.

27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:

- a) in relation to income from an occupation of the person:
 - (i) a description of the occupation, and

- (ii) if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and
 - (iii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
- b) in relation to income from a trust, the name and address of the settlor and the trustee, or
- c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
29. The source of any income received by the person that they ceased to receive prior to becoming a Councillor or designated person need not be disclosed.
30. A fee paid to a Councillor or to the Mayor or deputy Mayor under sections 248 or 249 of the LGA need not be disclosed.

Debts

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

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

Discretionary disclosures

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

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

'Disclosures by Councillors and designated persons' return

1. The pecuniary interests and other matters to be disclosed in this return are prescribed by Schedule 1 of the Model Code of Conduct for Local Councils in NSW (the Model Code of Conduct).
2. If this is the first return you have been required to lodge with the Chief Executive Officer after becoming a Councillor or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a Councillor or designated person.
3. If you have previously lodged a return with the Chief Executive Officer and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the Chief Executive Officer, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year or the date on which you became a Councillor or designated person, (whichever is the later date), to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
4. If you have previously lodged a return with the Chief Executive Officer and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.
6. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.
7. If there are no pecuniary interests or other matters of the kind required to be disclosed under a heading in this form, the word "NIL" is to be placed in an appropriate space under that heading.

Important information

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

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

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

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

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

Disclosure of pecuniary interests and other matters by *[full name of Councillor or designated person]*

as at *[return date]*

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

[Councillor's or designated person's signature]

[date]

A. Real Property

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

B. Sources of income

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

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

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

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

Sources of income I received from a trust since 30 June

Name and address of settlor	Name and address of trustee

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

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

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

C. Gifts

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

D. Contributions to travel

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

E. Interests and positions in corporations

Name and address of each corporation in which I had an interest (if interest or held a position at the return date/at any time since 30 June	Nature of any)	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)
<hr/>			

F. Were you a property developer or a close associate of a property developer on the return date? (Y/N)

G. Positions in trade unions and professional or business associations

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

H. Debts

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

I. Dispositions of property

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

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

J. Discretionary disclosures

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

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

Important information

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

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

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

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

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

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

inspect it. The special disclosure must be recorded in the minutes of the meeting.

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

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

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

to be held on the day of 20 .

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

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

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

Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on Councillor or associated person <i>[Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]</i>	

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

Councillor's signature

Date

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



Procedures for the Administration of the Model Code of Conduct

Date	1 October 2020
Council Resolution Date	7 December 2020
Clause Number	CCL20/217
Responsible Position	Executive Manager – Governance and Internal Control
Branch	Governance and Internal Control
Division	Executive Services
Version	2.0
TRIM Reference Number	ED20/223202
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Review Date	September 2020
Next Review Date	October 2022
Consultation	Not applicable

Document Revision History	
Description	Date
Adopted by Council	8 April 2019
Document revised to accord with Office of Local Government's 'Procedures for the Administration of the Model Code of Conduct for Local Councils NSW' which was updated August 2020.	September 2020
Notes	

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PART 1 INTRODUCTION

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

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

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

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

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

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

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

Note: Parts 6, 7, 8 and 11 of these procedures apply only to the management of code of conduct complaints about councillors (including the mayor) or the general manager.

PART 2 DEFINITIONS

In these procedures the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
CEO	Chief Executive Officer

code of conduct	a code of conduct adopted under section 440 of the LGA
code of conduct complaint	a complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures
complainant	a person who makes a code of conduct complaint
complainant councillor	a councillor who makes a code of conduct complaint
complaints coordinator	a person appointed by the Chief Executive Officer under these procedures as a complaints coordinator
conduct reviewer	a person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the council's audit, risk and improvement committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the council's audit, risk and improvement committee
councillor	any person elected or appointed to civic office, including the mayor, and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
council official	any councillor, member of staff of council, administrator, council committee member, delegate of council and, for the purposes of

	clause 4.16 of the Model Code of Conduct, council adviser
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
external agency	a state government agency such as, but not limited to, the Office, the ICAC, the NSW Ombudsman or the police
general manager	referred to at Dubbo Regional Council as the Chief Executive Officer (CEO)
ICAC	the Independent Commission Against Corruption
joint organisation	a joint organisation established under section 4000 of the LGA
LGA	the <i>Local Government Act 1993</i>
mayor	includes the chairperson of a county council or a joint organisation
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	the Office of Local Government
investigator	a conduct reviewer
the Regulation	the <i>Local Government (General) Regulation 2005</i>
respondent	a person whose conduct is the subject of investigation by a conduct reviewer under these procedures
wholly advisory committee	a council committee that the council has not delegated any functions to

PART 3 ADMINISTRATIVE FRAMEWORK

The establishment of a panel of conduct reviewers

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

- 3.8 An incorporated or other entity may be appointed to a council's panel of conduct reviewers where the council is satisfied that all the persons who will be undertaking the functions of a conduct reviewer on behalf of the entity meet the selection and eligibility criteria prescribed under this Part.
- 3.9 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.10 The council may terminate the panel of conduct reviewers at any time. Where a panel of conduct reviewers has been terminated, conduct reviewers who were members of the panel may continue to deal with any matter referred to them under these procedures prior to the termination of the panel until they have finalised their consideration of the matter.
- 3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council if they continue to meet the selection and eligibility criteria for membership of the panel.

The appointment of an internal ombudsman to a panel of conduct reviewers

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

The appointment of complaints coordinators

- 3.17 The Chief Executive Officer (CEO) must appoint a member of staff of the council or another person (such as, but not limited to, a member of staff of another council or a member of staff of a joint organisation or other regional body associated with the council), to act as a complaints coordinator. Where the complaints coordinator is a member of staff of the council, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.18 The CEO may appoint other members of staff of the council or other persons (such as, but not limited to, members of staff of another council or members of staff of a joint organisation or other regional body associated with the council), to act as alternates to the complaints coordinator.
- 3.19 The CEO must not undertake the role of complaints coordinator.
- 3.20 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.
- 3.21 The role of the complaints coordinator is to:
- a) coordinate the management of complaints made under the council's code of conduct
 - b) liaise with and provide administrative support to a conduct reviewer
 - c) liaise with the Office, and
 - d) arrange the annual reporting of code of conduct complaints statistics.

PART 4 HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?

What is a code of conduct complaint?

- 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that shows or tends to show conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct if proven.
- 4.2 The following are not "code of conduct complaints" for the purposes of these procedures:
- a) complaints about the standard or level of service provided by the council or a council official
 - b) complaints that relate solely to the merits of a decision made by the council or a council official or the exercise of a discretion by the council or a council official
 - c) complaints about the policies or procedures of the council

- d) complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council's code of conduct.

- 4.3 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a code of conduct complaint are to be dealt with under the council's routine complaints management processes.

When must a code of conduct complaint be made?

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

How may a code of conduct complaint about a council official other than the CEO be made?

- 4.6 All code of conduct complaints other than those relating to the CEO are to be made to the CEO in writing. This clause does not operate to prevent a person from making a complaint to an external agency.
- 4.7 Where a code of conduct complaint about a council official other than the CEO cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.8 In making a code of conduct complaint about a council official other than the CEO, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.9 The CEO or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.10 Notwithstanding clauses 4.6 and 4.7, where the CEO becomes aware of a possible breach of the council's code of conduct, they may initiate the process for the consideration of the matter under these procedures without a written complaint.

How may a code of conduct complaint about the CEO be made?

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

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

Delegation by CEO and mayors of their functions under this Part

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

Consideration of complaints by general managers and mayors

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

What complaints may be declined at the outset?

- 5.3 Without limiting any other provision in these procedures, the CEO or, in the case of a complaint about the CEO, the mayor, may decline to deal with a complaint under these procedures where they are satisfied that the complaint:
 - a) is not a code of conduct complaint, or
 - b) subject to clause 4.5, is not made within 3 months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct, or

- c) is trivial, frivolous, vexatious or not made in good faith, or
- d) relates to a matter the substance of which has previously been considered and addressed by the council and does not warrant further action, or
- e) is not made in a way that would allow the alleged conduct and any alleged breaches of the council's code of conduct to be readily identified.

How are code of conduct complaints about staff (other than the CEO) to be dealt with?

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

How are code of conduct complaints about delegates of council, council advisers and council committee members to be dealt with?

- 5.10 The CEO is responsible for the management of code of conduct complaints about delegates of council and council committee members (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.

- 5.11 The CEO must refer code of conduct complaints about council advisers, delegates of council and council committee members alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.12 The CEO may decide to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member other than one requiring referral to the Office under clause 5.11 where they consider that no action is warranted in relation to the complaint.
- 5.13 Where the CEO decides to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member, the CEO must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.
- 5.14 Where the CEO considers it to be practicable and appropriate to do so, the CEO may seek to resolve code of conduct complaints about delegates of council or council committee members, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.15 Where the CEO resolves a code of conduct complaint under clause 5.14 to the CEO's satisfaction, the CEO must notify the complainant in writing of the steps taken to resolve the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.16 Sanctions for breaches of the code of conduct by delegates of council and/or council committee members depend on the severity, scale and importance of the breach and may include one or more of the following:
- a) censure
 - b) requiring the person to apologise to any person or organisation adversely affected by the breach in such a time and form specified by the CEO
 - c) prosecution for any breach of the law
 - d) removing or restricting the person's delegation
 - e) removing the person from membership of the relevant council committee.
- 5.17 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.16, the CEO or any person making enquiries on behalf of the CEO must comply with the requirements of procedural fairness. In particular:

- a) the substance of the allegation (including the relevant provision/s of the council's code of conduct that the alleged conduct is in breach of) must be put to the person who is the subject of the allegation, and
- b) the person must be given an opportunity to respond to the allegation, and
- c) the CEO must consider the person's response in deciding whether to impose a sanction under clause 5.16.

How are code of conduct complaints about administrators to be dealt with?

5.18 The CEO must refer all code of conduct complaints about administrators to the Office for its consideration.

5.19 The CEO must notify the complainant of the referral of their complaint in writing.

How are code of conduct complaints about councillors to be dealt with?

5.20 The CEO must refer the following code of conduct complaints about councillors to the Office:

- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
- b) complaints alleging a failure to comply with a requirement under the code of conduct to disclose and appropriately manage conflicts of interest arising from political donations (see section 328B of the LGA)
- c) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
- d) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.

5.21 Where the CEO refers a complaint to the Office under clause 5.20, the CEO must notify the complainant of the referral in writing.

5.22 The CEO may decide to take no action in relation to a code of conduct complaint about a councillor, other than one requiring referral to the Office under clause 5.20, where they consider that no action is warranted in relation to the complaint.

5.23 Where the CEO decides to take no action in relation to a code of conduct complaint about a councillor, the CEO must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.

5.24 Where the CEO considers it to be practicable and appropriate to do so, the CEO may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation,

informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.

- 5.25 Where the CEO resolves a code of conduct complaint under clause 5.24 to the CEO's satisfaction, the CEO must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.26 The CEO must refer all code of conduct complaints about councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaints coordinator.

How are code of conduct complaints about the general manager to be dealt with?

- 5.27 The mayor must refer the following code of conduct complaints about the CEO to the Office:
- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
 - b) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
 - c) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.
- 5.28 Where the mayor refers a complaint to the Office under clause 5.27, the mayor must notify the complainant of the referral in writing.
- 5.29 The mayor may decide to take no action in relation to a code of conduct complaint about the CEO, other than one requiring referral to the Office under clause 5.27, where they consider that no action is warranted in relation to the complaint.
- 5.30 Where the mayor decides to take no action in relation to a code of conduct complaint about the CEO, the mayor must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.31 Where the mayor considers it to be practicable and appropriate to do so, the mayor may seek to resolve code of conduct complaints about the CEO, other than those requiring referral to the Office under clause 5.27, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.

- 5.32 Where the mayor resolves a code of conduct complaint under clause 5.31 to the mayor's satisfaction, the mayor must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.33 The mayor must refer all code of conduct complaints about the CEO, other than those referred to the Office under clause 5.27 or finalised under clause 5.30 or resolved under clause 5.31, to the complaints coordinator.

How are complaints about both the CEO and the mayor to be dealt with?

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

Referral of code of conduct complaints to external agencies

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

Disclosure of the identity of complainants

- 5.39 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:
- a) the complainant consents in writing to the disclosure, or

- b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
- c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or
- d) a conduct reviewer is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
- e) it is otherwise in the public interest to do so.

- 5.40 Clause 5.39 does not apply to code of conduct complaints made by councillors about other councillors or the CEO.
- 5.41 Where a councillor makes a code of conduct complaint about another councillor or the CEO, and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.
- 5.42 A request made by a complainant councillor under clause 5.41 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.
- 5.43 The CEO or mayor, and where the matter is referred to a conduct reviewer, the conduct reviewer, must consider a request made under clause 5.41 before disclosing information that identifies or tends to identify the complainant councillor, but they are not obliged to comply with the request.
- 5.44 Where a complainant councillor makes a request under clause 5.41, the CEO or mayor or, where the matter is referred to a conduct reviewer, the conduct reviewer, shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

Code of conduct complaints made as public interest disclosures

- 5.45 These procedures do not override the provisions of the *Public Interest Disclosures Act 1994*. Code of conduct complaints that are made as public interest disclosures under that Act are to be managed in accordance with the requirements of that Act, the council's internal reporting policy, and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.
- 5.46 Where a councillor makes a code of conduct complaint about another councillor or the CEO as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant councillor must consent in writing to the disclosure of their identity as the complainant.

- 5.47 Where a complainant councillor declines to consent to the disclosure of their identity as the complainant under clause 5.46, the CEO or the mayor must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.

Special complaints management arrangements

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

**PART 6 PRELIMINARY ASSESSMENT OF CODE OF CONDUCT COMPLAINTS ABOUT
COUNCILLORS OR THE GENERAL MANAGER BY CONDUCT REVIEWERS**

Referral of code of conduct complaints about councillors or the CEO to conduct reviewers

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the CEO that have not been referred to an external agency or declined or resolved by the CEO, mayor or their delegate and that have been referred to them under clauses 5.26 or 5.33, to a conduct reviewer within 21 days of receipt of the complaint by the CEO or the mayor.
- 6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
- a) a panel of conduct reviewers established by the council, or
 - b) a panel of conduct reviewers established by an organisation approved by the Office.
- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.
- 6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
- a) they have a conflict of interest in relation to the matter referred to them, or
 - b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
 - c) they or their employer has entered into one or more contracts with the council (other than contracts relating to the exercise of their functions as a conduct reviewer) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a value that, when aggregated, exceeds \$100,000, or
 - d) at the time of the referral, they or their employer are the council's legal service provider or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 5.2 of the Model Code of Conduct).

- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.
- 6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council, including any information about previous proven breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer, and advise which conduct reviewer the matter has been referred to.
- 6.9 Conduct reviewers must comply with these procedures in their consideration of matters that have been referred to them and exercise their functions in a diligent and timely manner.
- 6.10 The complaints coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the complaints coordinator is satisfied that the conduct reviewer has failed to:
- a) comply with these procedures in their consideration of the matter, or
 - b) comply with a lawful and reasonable request by the complaints coordinator, or
 - c) exercise their functions in a timely or satisfactory manner.
- 6.11 Where the complaints coordinator terminates a referral to a conduct reviewer under clause 6.10, they must notify the complainant and any other affected person in writing of their decision and the reasons for it and advise them which conduct reviewer the matter has been referred to instead.

Preliminary assessment of code of conduct complaints about councillors or the CEO by a conduct reviewer

- 6.12 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.
- 6.13 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:
- a) to take no action
 - b) to resolve the complaint by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation,

informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour

- c) to refer the matter back to the CEO or, in the case of a complaint about the CEO, the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
- d) to refer the matter to an external agency
- e) to investigate the matter.

- 6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.
- 6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.
- 6.16 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.
- 6.18 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.
- 6.19 The resolution of a code of conduct complaint under clause 6.13, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.
- 6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:

- a) that the complaint is a code of conduct complaint for the purposes of these procedures, and
- b) that the alleged conduct is sufficiently serious to warrant the formal censure of a councillor under section 440G of the LGA or disciplinary action against the CEO under their contract of employment if it were to be proven, and
- c) that the matter is one that could not or should not be resolved by alternative means.

6.23 In determining whether a matter is sufficiently serious to warrant formal censure of a councillor under section 440G of the LGA or disciplinary action against the CEO under their contract of employment, the conduct reviewer is to consider the following:

- a) the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
- b) the likely impact of the alleged conduct on the reputation of the council and public confidence in it
- c) whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
- d) any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.

6.24 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator and notify the complaints coordinator in writing of the outcome of their assessment.

6.25 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.

Referral back to the CEO or mayor for resolution

6.26 Where the conduct reviewer determines to refer a matter back to the CEO or to the mayor to be resolved by alternative and appropriate means, they must write to the CEO or, in the case of a complaint about the CEO, to the mayor, recommending the means by which the complaint may be resolved.

6.27 The conduct reviewer must consult with the CEO or mayor prior to referring a matter back to them under clause 6.13(c).

6.28 The CEO or mayor may decline to accept the conduct reviewer's recommendation. In such cases, the conduct reviewer may determine to deal with the complaint by other means under clause 6.13.

6.29 Where the conduct reviewer refers a matter back to the CEO or mayor under clause 6.13(c), the CEO or, in the case of a complaint about the CEO, the mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.

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

Complaints assessment criteria

6.31 In undertaking the preliminary assessment of a complaint, the conduct reviewer must have regard to the following considerations:

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

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

What matters may a conduct reviewer investigate?

- 7.1 A conduct reviewer (hereafter referred to as an “investigator”) may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 7.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or do not arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the CEO, or, in the case of alleged conduct on the part of the CEO, to the mayor.
- 7.3 The CEO or the mayor or their delegate is to deal with a matter reported to them by an investigator under clause 7.2 as if it were a new code of conduct complaint in accordance with these procedures.

How are investigations to be commenced?

- 7.4 The investigator must at the outset of their investigation provide a written notice of investigation to the respondent. The notice of investigation must:
 - a) disclose the substance of the allegations against the respondent, and
 - b) advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
 - c) advise of the process to be followed in investigating the matter, and
 - d) advise the respondent of the requirement to maintain confidentiality, and
 - e) invite the respondent to make a written submission in relation to the matter within a period of not less than 14 days specified by the investigator in the notice, and
 - f) provide the respondent the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 7.5 The respondent may, within 7 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the respondent to identify the substance of the allegation against them.
- 7.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the respondent in relation to the matter referred to them.

- 7.7 Where an investigator issues an amended notice of investigation, they must provide the respondent with a further opportunity to make a written submission in response to the amended notice of investigation within a period of not less than 14 days specified by the investigator in the amended notice.
- 7.8 The investigator must also, at the outset of their investigation, provide written notice of the investigation to the complainant, the complaints coordinator and the CEO, or in the case of a complaint about the CEO, to the complainant, the complaints coordinator and the mayor. The notice must:
- a) advise them of the matter the investigator is investigating, and
 - b) in the case of the notice to the complainant, advise them of the requirement to maintain confidentiality, and
 - c) invite the complainant to make a written submission in relation to the matter within a period of not less than 14 days specified by the investigator in the notice.

Written and oral submissions

- 7.9 Where the respondent or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 7.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 7.11 Prior to preparing a draft report, the investigator must give the respondent an opportunity to address the investigator on the matter being investigated. The respondent may do so in person or by telephone or other electronic means.
- 7.12 Where the respondent fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the respondent.
- 7.13 Where the respondent accepts the opportunity to address the investigator in person, they may have a support person or legal adviser in attendance. The support person or legal adviser will act in an advisory or support role to the respondent only. They must not speak on behalf of the respondent or otherwise interfere with or disrupt proceedings.
- 7.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

How are investigations to be conducted?

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

Referral or resolution of a matter after the commencement of an investigation

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

or in the case of a complaint about the CEO, to the respondent, the complainant, the complaints coordinator and the mayor, discontinue their investigation of the matter.

- 7.24 Where the investigator discontinues their investigation of a matter under clause 7.23, this shall finalise the consideration of the matter under these procedures.
- 7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 7.20 or to discontinue their investigation except as may be specifically required under these procedures.

Draft investigation reports

- 7.26 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 7.27 The investigator must provide their draft report to the respondent and invite them to make a written submission in relation to it within a period of not less than 14 days specified by the investigator.
- 7.28 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within a period of not less than 14 days specified by the investigator.
- 7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the respondent or an affected person, they must provide the respondent or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.
- 7.31 Where the respondent or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

Final investigation reports

- 7.33 Where an investigator issues a notice of investigation, they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.
- 7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 7.35 The investigator's final report must:
- a) make findings of fact in relation to the matter investigated, and,
 - b) make a determination that the conduct investigated either,
 - i. constitutes a breach of the code of conduct, or
 - ii. does not constitute a breach of the code of conduct, and
 - c) provide reasons for the determination.
- 7.36 At a minimum, the investigator's final report must contain the following information:
- a) a description of the allegations against the respondent
 - b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated
 - c) a statement of reasons as to why the matter warranted investigation (having regard to the criteria specified in clause 6.23)
 - d) a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means
 - e) a description of any attempts made to resolve the matter by use of alternative means
 - f) the steps taken to investigate the matter
 - g) the facts of the matter
 - h) the investigator's findings in relation to the facts of the matter and the reasons for those findings
 - i) the investigator's determination and the reasons for that determination
 - j) any recommendations.
- 7.37 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may recommend:
- a) in the case of a breach by the CEO, that disciplinary action be taken under the CEO'S contract of employment for the breach, or
 - b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA, or
 - c) in the case of a breach by a councillor, that the council resolves as follows:
 - i. that the councillor be formally censured for the breach under section 440G of the LGA, and

- ii. that the matter be referred to the Office for further action under the misconduct provisions of the LGA.

- 7.38 Where the investigator proposes to make a recommendation under clause 7.37(c), the investigator must first consult with the Office on their proposed findings, determination and recommendation prior to finalising their report, and must take any comments by the Office into consideration when finalising their report.
- 7.39 Where the investigator has determined that there has been a breach of the code of conduct, the investigator may, in addition to making a recommendation under clause 7.37, recommend that the council revise any of its policies, practices or procedures.
- 7.40 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may recommend:
- a) that the council revise any of its policies, practices or procedures
 - b) that a person or persons undertake any training or other education.
- 7.41 The investigator must provide a copy of their report to the complaints coordinator and the respondent.
- 7.42 At the time the investigator provides a copy of their report to the complaints coordinator and the respondent, the investigator must provide the complainant with a written statement containing the following information:
- a) the investigator's findings in relation to the facts of the matter and the reasons for those findings
 - b) the investigator's determination and the reasons for that determination
 - c) any recommendations, and
 - d) such other additional information that the investigator considers may be relevant.
- 7.43 Where the investigator has determined that there has not been a breach of the code of conduct, the complaints coordinator must provide a copy of the investigator's report to the CEO or, where the report relates to the CEO'S conduct, to the mayor, and this will finalise consideration of the matter under these procedures.
- 7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation under clause 7.37, the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.

- 7.45 Where it is apparent to the complaints coordinator that the council will not be able to form a quorum to consider the investigator's report, the complaints coordinator must refer the investigator's report to the Office for its consideration instead of reporting it to the council under clause 7.44.

Consideration of the final investigation report by council

- 7.46 The role of the council in relation to a final investigation report is to impose a sanction if the investigator has determined that there has been a breach of the code of conduct and has made a recommendation in their final report under clause 7.37.
- 7.47 The council is to close its meeting to the public to consider the final investigation report in cases where it is permitted to do so under section 10A of the LGA.
- 7.48 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interest in relation to the matter unless otherwise required to do so under the code of conduct.
- 7.49 Prior to imposing a sanction, the council must provide the respondent with an opportunity to make a submission to the council. A submission may be made orally or in writing. The respondent is to confine their submission to addressing the investigator's recommendation.
- 7.50 Once the respondent has made their submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.
- 7.51 The council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.
- 7.52 Prior to imposing a sanction, the council may by resolution:
- a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
 - b) seek an opinion from the Office in relation to the report.
- 7.53 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Office.
- 7.54 The investigator may make additional enquiries for the purpose of preparing a supplementary report.

- 7.55 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council and the respondent.
- 7.56 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.
- 7.57 The council is only required to provide the respondent a further opportunity to make an oral or written submission on a supplementary report if the supplementary report contains new information that is adverse to them.
- 7.58 A council may by resolution impose one of the following sanctions on a respondent:
- a) in the case of a breach by the CEO, that disciplinary action be taken under the CEO's contract of employment for the breach, or
 - b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA, or
 - c) in the case of a breach by a councillor:
 - i. that the councillor be formally censured for the breach under section 440G of the LGA, and
 - ii. that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.59 Where the council censures a councillor under section 440G of the LGA, the council must specify in the censure resolution the grounds on which it is satisfied that the councillor should be censured by disclosing in the resolution, the investigator's findings and determination and/or such other grounds that the council considers may be relevant or appropriate.
- 7.60 The council is not obliged to adopt the investigator's recommendation. Where the council proposes not to adopt the investigator's recommendation, the council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.
- 7.61 Where the council resolves not to adopt the investigator's recommendation, the complaints coordinator must notify the Office of the council's decision and the reasons for it.

PART 8 OVERSIGHT AND RIGHTS OF REVIEW

The Office's powers of review

- 8.1 The Office may, at any time, whether or not in response to a request, review the consideration of a matter under a council's code of conduct where it is concerned that a person has failed to comply with a requirement prescribed

under these procedures or has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct in their consideration of a matter.

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

Complaints about conduct reviewers

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

Practice rulings

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

Review of decisions to impose sanctions

- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.58, paragraph (c), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.

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

8.20 Where, having reviewed its previous decision in relation to a matter under clause 8.19(b), the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.

PART 9 PROCEDURAL IRREGULARITIES

9.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct, except as may be otherwise specifically provided under the code of conduct.

9.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:

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

PART 10 PRACTICE DIRECTIONS

10.1 The Office may at any time issue a practice direction in relation to the application of these procedures.

10.2 The Office will issue practice directions in writing, by circular to all councils.

10.3 All persons performing a function prescribed under these procedures must consider the Office's practice directions when performing the function.

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

11.1 The complaints coordinator must arrange for the following statistics to be reported to the council within 3 months of the end of September of each year:

- a) the total number of code of conduct complaints made about councillors and the general manager under the code of conduct in the year to September (the reporting period)
- b) the number of code of conduct complaints referred to a conduct reviewer during the reporting period
- c) the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage during the reporting period and the outcome of those complaints
- d) the number of code of conduct complaints investigated by a conduct reviewer during the reporting period

- e) without identifying particular matters, the outcome of investigations completed under these procedures during the reporting period
- f) the number of matters reviewed by the Office during the reporting period and, without identifying particular matters, the outcome of the reviews, and
- g) the total cost of dealing with code of conduct complaints made about councillors and the CEO during the reporting period, including staff costs.

11.2 The council is to provide the Office with a report containing the statistics referred to in clause 11.1 within 3 months of the end of September of each year.

PART 12 CONFIDENTIALITY

12.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.

12.2 Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or purported to make, the general manager or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future code of conduct complaint they make or purport to make.

12.3 Prior to seeking the Office's consent under clause 12.2, the CEO or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission within a period of not less than 14 days specified by the CEO or their delegate, and consider any submission made by them.

12.4 In giving its consent under clause 12.2, the Office must consider any submission made by the complainant to the CEO or their delegate.

12.5 The CEO or their delegate must give written notice of a determination made under clause 12.2 to:

- a) the complainant
- b) the complaints coordinator
- c) the Office, and
- d) any other person the CEO or their delegate considers should be notified of the determination.

12.6 Any requirement under these procedures that a complainant is to be provided with information about a code of conduct complaint that they have made or

purported to make, will not apply to a complainant the subject of a determination made by the CEO or their delegate under clause 12.2.

- 12.7 Clause 12.6 does not override any entitlement a person may have to access to council information under the *Government Information (Public Access) Act 2009* or to receive information under the *Public Interest Disclosures Act 1994* in relation to a complaint they have made.



REPORT: Prevention of Workplace Bullying Policy and Procedure

AUTHOR: Executive Manager People Culture and Safety
REPORT DATE: 27 April 2021
TRIM REFERENCE: ID21/677

EXECUTIVE SUMMARY

At Extraordinary Meeting of Council held on 12 April 2021, Council resolved, in part:

- “5. That a report be prepared for the 3 May 2021 Ordinary meeting of Council that advises on council’s bullying and harassment policies and any reforms needed in order for them to be best practise.”*

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

POLICY IMPLICATIONS

If resolved, the updated Prevention of Workplace Bullying Policy and Procedure will remain in Draft format until adopted at a subsequent meeting of Council.

RECOMMENDATION

- 1. That the report of the Executive Manager People Culture and Safety, dated 27 April 2021, be noted.**
- 2. That the Prevention of Workplace Bullying Policy and Procedure be updated in line the recommendations provided by Sparke Helmore Lawyers.**
- 3. That the updated Draft Prevention of Workplace Bullying Policy and Procedure be submitted to 15 June 2021 Culture Economy and Corporate Committee meeting for adoption.**

Mardi Stiles

Executive Manager People Culture and Safety

REPORT

Council adopted a Prevention of Workplace Bullying Policy and Procedure in November 2016 following the amalgamation. The policy covers both staff and Councillors and identifies what workplace bullying is, Council's stance on bullying and expected workplace behaviours and what to do if bullying is occurring. It also outlines if the policy is breached the action that the Council may take.

The policy was based on the former Dubbo City Council policy that had been developed with the assistance of MLJ Lawyers. MLJ worked with Council over an extended period on a number of policies to ensure adherence to all relevant legislation and best practice.

As well as Council's Prevention of Workplace Bullying Policy and Procedure, Council has an adopted Code of Conduct, which covers both Council Officials and staff. In 2018 the Office of Local Government (OLG) made changes to the Model Code of Conduct. Part of these changes included the addition of sections on Bullying and Work Health and Safety. Council adopted this Code in April 2019. Since this time the OLG have made further changes, which Council adopted in December 2020. However, these additional changes are not in the areas of Bullying or Work Health and Safety.

Along with Council's policy and Code of Conduct, the Local Government (State) Award 2020 (Award), the industrial instrument that Council operates under, added a new clause on Workplace Bullying as well as amending and updating the clause on Workplace Investigations and supporting guidelines.

To ensure staff are aware of the policies and expected workplace behaviours, regular training is provided to all staff. From 2019 to date, 468 permanent staff have completed Code of Conduct training. All staff receive a copy of the Code of Conduct with their offer of employment and are required to acknowledge and agree to abide by it. The Code of Conduct is also included in the organisation's online and face-to-face induction for new employees.

In addition to Code of Conduct, in 2019/2020 Council enrolled staff to conduct Bullying and Harassment training through an e-learning module. To date 457 staff have individually completed the training, with operational areas completing them in groups. This means that the number of staff having completed the training is greater than 457. Similar to the Code of Conduct, new staff will be presented information about Bullying and Harassment in the face-to-face induction as well as being enrolled in the e-learning module.

The organisation will continue to provide training in both Code of Conduct and Bullying on a regular basis.

Councillors also received a presentation on the Code of Conduct and Bullying as part of their new Councillor induction in October 2017. This induction had a session on Safety and covered topics such as Duties and Responsibilities and Respectful Workplace, where Council's Prevention of Workplace Bullying Policy and Procedure were referenced.

On the evening of 18 September 2019, a training session was held for Councillors on the Code of Conduct. There is no attendance sheet for that session.

In response to Council's resolution of 12 April 2021 on any reforms needed in order for the policy to be best practice, advice was sought from legal firm Sparke Helmore.

Overall, the feedback provided by Sparke Helmore Lawyers was positive and that Council's policy was more than suitable. They suggested a review of the policy against the Guide for Preventing and Responding to Workplace Bullying by SafeWork Australia (referenced in the policy), which has been undertaken in house. It identified that the policy covers everything mentioned in the guide, with the exception of reference to external avenues. While the Fair Work Commission does not cover local government for bullying, Work Health and Safety regulators do and it is a recommendation that this addition be made to the policy.

Sparke Helmore Lawyers also made some recommendations to strengthen the policy. These additions relate to the use of wording and ensuring definitions are consistent across all policies that refer to bullying. Another recommendation was that the policy include the proactive work that the organisation is currently undertaking, and will continue to do, such as the provision of training and education.

The main recommendation provided was that the policy include how Council will deal with instances of behaviour that is not bullying but unreasonable. In part this recommendation is to assist Council address and manage situations of unreasonable behaviour, to help ensure that they do not become events of bullying and to assist in ensuring a positive culture.



REPORT: Dubbo Aquatic Leisure Centre - Indoor facility concepts

AUTHOR: Director Liveability
REPORT DATE: 19 April 2021
TRIM REFERENCE: ID21/644

EXECUTIVE SUMMARY

A tendering process has occurred to provide Dubbo indoor aquatic facility architectural concepts. Submissions have been received from reputable organisations HUNT, Warren & Mahoney, as well as Brewster Hjorth. The concepts are inclusive of contemporary, built-for-purpose indoor swimming, as well as water based recreation, leisure and wellbeing facilities.

The proposed facilities take account of requirements for a regional centre, with a growing population, servicing greater western NSW. Whilst Council does not have allocated funding as a part of the draft 2021/2022 budget for detailed designs, formal development approvals, nor construction, differing funding strategies can potentially be adopted to enable detailed designs to be prepared. Once technical architectural drawings are in hand, the design documentation will better equip Council to undertake grant chasing and simultaneously strive for philanthropic donations.

FINANCIAL IMPLICATIONS

Organisations invited to tender for design concepts were entitled to a \$10,000 once off payment. The three designs have been costed at \$225,585, \$258,600 and \$381,750. Two architectural firms have also costed detailed designs, inclusive of documentation for Development Approvals, at \$1,394,356 and \$1,445,873. All three architectural designs are based on an anticipated facility construction price of \$30 million. Budgetary provisions for technical designs, drawings and Development Approvals have not been made as a part of draft 2021/2022 financial allocations.

POLICY IMPLICATIONS

Potential construction of an indoor Dubbo Aquatic Leisure Centre facility is in keeping with the *2040 Community Strategic Plan*, Liveability theme 5.5 “the Community has the opportunity to participate in a diverse range of lifestyle, sporting and passive recreational pursuits”; and 5.5.4, “Our sporting facilities are recognised as catering for a wide range of local, regional and state sporting events and opportunity.”

RECOMMENDATION

- 1. That the report from the Director Liveability, dated 19 May 2021, be noted.**
- 2. That a suitable funding strategy for an indoor aquatic leisure centre be determined.**

Skye Price

Director Liveability

BACKGROUND

Council at its meeting held on 7 December 2020 resolved:

“That a masterplan for the future Dubbo Aquatic Leisure Centre be prepared, with design concepts to be presented to Council in April 2021.”

This pursuit is consistent with the Community Strategic Plan 2040, Recreation Strategy 2030 and Victoria Park Plan of Management.

Taking account of the festive and new year holiday season, expressions of interest were sought from 12 January until 2 February 2021. 13 organisations made a submission.

The organisations were assessed in regard to:

- Similar and innovative projects – indoor aquatic facilities
- Sustainability – green energy principles
- Identified project cost \$30 million
- Financial capability

Four organisations were selected to progress and invited to tender for full design. The period for submissions spanned from 12 March, until 12 April 2021, inclusive of a mandatory site meeting on 22 March 2021.

Submissions were asked to make provision for facilities inclusive of:

- 25 metre, eight lane pool
- Learn to swim pool/warm water program pool/hydrotherapy pool
- Leisure and toddler pool, including water features and beach entry
- Lazy river
- Heated spa
- Sauna/steam room
- Fully equipped gym
- Wave feature
- Amenities: rest rooms/change rooms
- Break-out/training room space
- Childcare facility

These requirements were based upon former community engagement and preliminary indoor facility master planning, in 2017.

HUNT

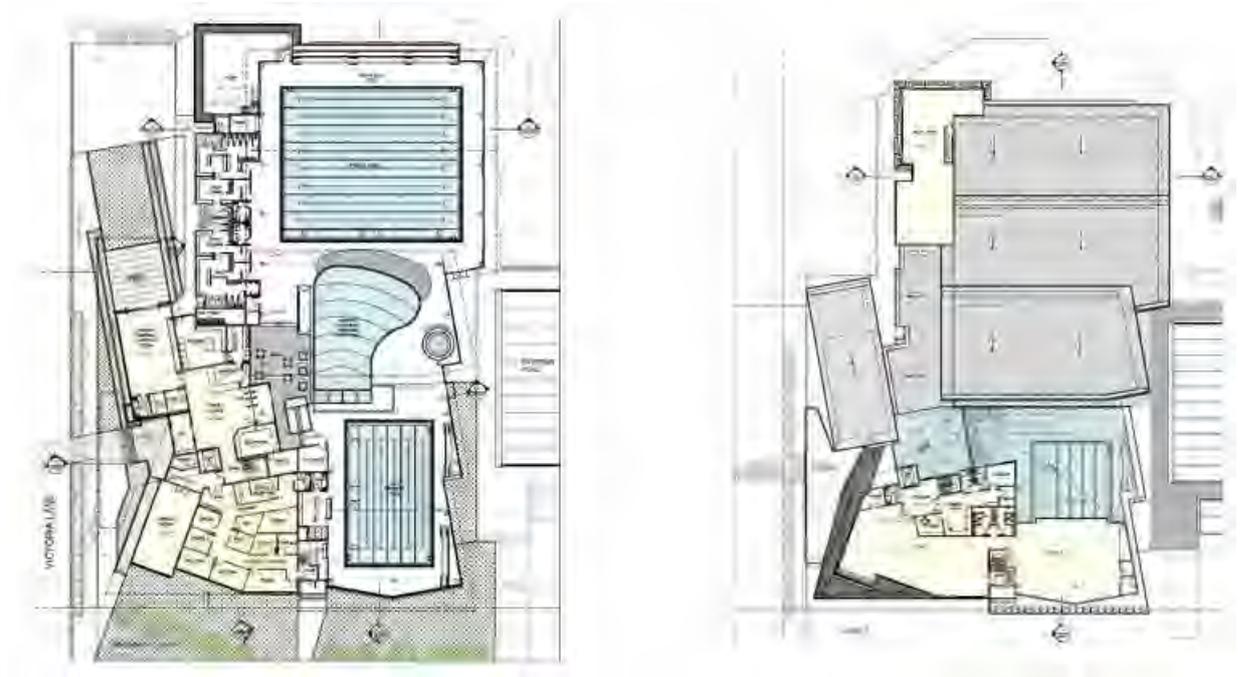
The Hunt architectural submission summary is as follows:

- Retains 50 metre outdoor pool, splash park and toddler pool
- Upgrades plant room
- Allows for demolition of existing amenities, for future water slide park
- Fits largely within existing footprint
- Provides additional car parking spaces
- Retains skate park
- Maintains Victoria Lane thoroughfare

Site plan



Internal overview



Aerial



Elevations



FRONT ENTRANCE FROM VICTORIA LANE



FRONT ENTRANCE FROM TALBRAGAR STREET

Warren & Mahoney

The Warren & Mahoney architectural submission summary is as follows:

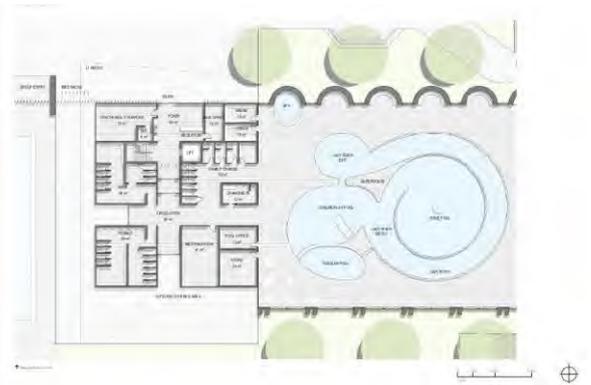
- Incorporates existing and new facilities
- Retains 50 metre outdoor pool, splash park and toddlers' pool
- Retains existing amenities for outdoor component
- Provides additional 102 car parking spaces
- Loses water slides
- Loses skate park
- Loses Victoria Lane thoroughfare

Site plan

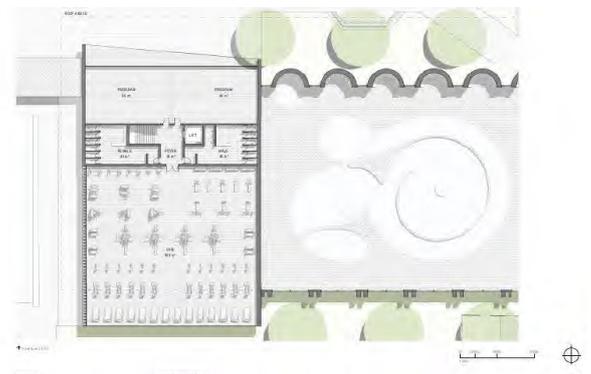
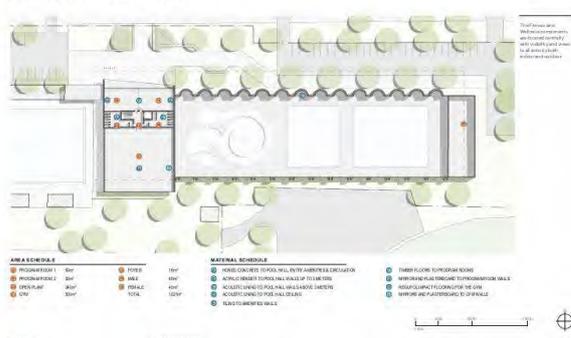


Internal Overview

Floorplan - Ground floor



Floorplan - First floor



Elevations and Internal View



Elevations

Elevations



MATERIAL SCHEDULE

<ul style="list-style-type: none"> 1. CONCRETE TO EXISTING WALL 2. EXISTING TO EXISTING ROOFING 3. EXISTING TO EXISTING WALL 4. EXISTING TO EXISTING WALL 	<p>DISCONTINUITY / DISCONTINUITY BY CONSTRUCTION & MATERIAL</p> <ul style="list-style-type: none"> 5. CONCRETE TO EXISTING WALL 6. CONCRETE TO EXISTING WALL 7. CONCRETE TO EXISTING WALL 8. CONCRETE TO EXISTING WALL 	<ul style="list-style-type: none"> 9. CONCRETE TO EXISTING WALL 10. CONCRETE TO EXISTING WALL 11. CONCRETE TO EXISTING WALL 12. CONCRETE TO EXISTING WALL
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MATERIAL SCHEDULE

<ul style="list-style-type: none"> 1. CONCRETE TO EXISTING WALL 2. EXISTING TO EXISTING ROOFING 3. EXISTING TO EXISTING WALL 4. EXISTING TO EXISTING WALL 	<p>DISCONTINUITY / DISCONTINUITY BY CONSTRUCTION & MATERIAL</p> <ul style="list-style-type: none"> 5. CONCRETE TO EXISTING WALL 6. CONCRETE TO EXISTING WALL 7. CONCRETE TO EXISTING WALL 8. CONCRETE TO EXISTING WALL 	<ul style="list-style-type: none"> 9. CONCRETE TO EXISTING WALL 10. CONCRETE TO EXISTING WALL 11. CONCRETE TO EXISTING WALL 12. CONCRETE TO EXISTING WALL
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Brewster Hjorth

The Brewster Hjorth architectural submission summary is as follows:

- Incorporates existing and new facilities
- Retains 50 metre outdoor pool, splash park, toddlers’ pool and water slide
- Retains existing amenities for outdoor component
- Provides additional car parking spaces
- Retains skate park
- Loses Victoria Lane thoroughfare

Site Plan



Internal Overview



Elevation and Internal View



View of the new Main Entry and drop-off area from Talbargar Street
Dubbo Aquatic Leisure Centre
Proposed Masterplan





Aerial View



SUMMARY

A tendering process has occurred to provide indoor aquatic facility architectural concepts. Submissions have been received from reputable organisations HUNT, Warren & Mahoney, as well as Brewster Hjorth. The concepts are inclusive of contemporary, built-for-purpose indoor training, competitive swimming, as well as recreation, leisure and wellbeing facilities.

The proposed facilities take account of requirements for a regional centre, with a growing population, servicing greater western NSW. Whilst Council does not have allocated funding as a part of the draft 2021/2022 budget for detailed designs, formal development approvals, nor construction, differing funding strategies can potentially be adopted to enable detailed designs to be prepared. Once detailed designs are in hand, the design documentation will better equip Council to undertake grant chasing and simultaneously strive for philanthropic donations.



REPORT: Expressions of Interest - Wellington New Year's Eve Event

AUTHOR: Manager Regional Events
REPORT DATE: 21 April 2021
TRIM REFERENCE: ID21/653

EXECUTIVE SUMMARY

Council at its meeting held 25 January 2021 resolved as follows:

- “1. That Council call for submissions and expressions of interest from community organisations and individuals on a New Year’s Eve event in Wellington.*
- 2. That a report on outcomes of the submissions and expressions of interest be submitted to the May 2021 Ordinary Meeting of Council.”*

Community consultation has been undertaken to understand the desire for the Wellington community to deliver a New Year’s Eve event, volunteer and attend an event. Council received two Expression of Interest (EOI) submissions to deliver an event. Following investigations, it was discovered that one of the EOIs was only interested in being a supporter. The second EOI only contained an email address with no other contact details or information provided regarding the event they propose to deliver. There has been no return contact from this person following efforts to seek more information on their EOI.

Council also received four EOIs from individuals who were willing to volunteer at an event and 11 people interested in attending an event.

There is currently no budget to provide to an organisation to deliver the event. However, any organising group could apply for funding opportunities through the Event Funding Programs.

FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

POLICY IMPLICATIONS

There are no policy implications arising from this report.

RECOMMENDATION

- 1. That the report of the Manager Regional Events, dated 21 April 2021, be noted.**
- 2. That Council respond to submissions made, thank them for their interest and advise that the process did not produce any concepts or community group interest for delivery of a New Year's Eve event in Wellington.**
- 3. That any community group interested in hosting a community New Year's Eve event in Wellington be directed to existing funding channels for potential financial or in-kind support from Council, and be connected with community members who expressed an interest in volunteering.**

Kim Hague

Manager Regional Events

BACKGROUND

The Dubbo Show Society currently operates a New Year's Eve event at Dubbo Showground. This event attracts approximately 5,000 people each year and is well supported by the business community through sponsorship. Council provides support for the event through provision of venue. The event provides entertainment through fireworks, children's activities and food and beverage outlets, and is a family orientated event.

Through a Council resolution, staff were requested to consult the Wellington community to gauge interest for a community New Year's Eve event, including any community interest in delivering a New Year's Eve event in Wellington.

Council at its meeting held 25 January 2021 resolved as follows:

- "1. That Council call for submissions and expressions of interest from community organisations and individuals on a New Year's Eve event in Wellington.*
- 2. That a report on outcomes of the submissions and expressions of interest be submitted to the May 2021 Ordinary Meeting of Council."*

REPORT

Council undertook an Expressions of Interest (EOI) that called for interest from the community to either host an event, volunteer at an event or attend a New Year's Eve (NYE) event. The EOI was opened on 9 March 2021 and closed on 16 April 2021. The EOI was promoted through the following channels:

- Print forms at Customer Service areas (DRC Dubbo office, DRC Wellington office, Wellington Visitors' Information Centre, Wellington Macquarie Regional Library)
- Promoted via the 'What's On in the Dubbo Region' eblast
- Dedicated eblast to Dubbo Region Event Network
- Promoted in monthly Economic Development eblast
- Listed in Dubbo Photo News in the 'Council Snapshot'
- Promoted in Daily Liberal
- Posted on Dubbo Region Event Network Facebook group
- Social media posts leading to the online form on @DubboRegionEvents
- Social media posts leading to the online form on @DubboRegionalCouncil
- Promoted via social media channels managed by Mayor of the Dubbo Region
- Added as an agenda item for the Dubbo Region Event Network meeting held on 13 April 2021

The following responses were received:

Interest in delivering a NYE Event:	2
Interest in volunteering at a NYE Event:	4
Interest in attending a NYE Event:	11
Total responses:	17

Of the expressions of interest to deliver a New Year's Eve event, the following individuals or organisations provided the following information:

1. KFC Wellington – expressed an interest to deliver the event. However, during further discussions with the organisation they noted they prefer to sponsor the event rather than deliver a New Year's Eve event.
2. Limited contact details were provided and no event concept plans were noted. There has been no return contact from this person following efforts to seek more information on their EOI.

There is no specific allocated funding or resources for a New Year's Eve event to be held in Wellington. Whilst this process did not identify a community group or individual interested in delivering a New Year's Eve event in Wellington, any community member interested in hosting an event can still apply through existing funding channels for potential financial or in-kind support from Council.

SUMMARY

An EOI process for delivery a New Year's Eve event in Wellington was opened to the Wellington community with 17 responses received in total. However the process did not produce any concepts or identify a specific community group interested in delivering of a New Year's Eve event in Wellington.

The responses who were interested in volunteering will put in contact with any individual or organisation that is interested in delivering a New Year's Eve event in Wellington.

Any community group or individual interested in delivering a New Year's Eve event Wellington, can apply through existing funding channels for potential financial or in-kind support from Council.



REPORT: Destination Partnership Program, Fees and Charges

AUTHOR: Manager Economic Development and Marketing
REPORT DATE: 23 April 2021
TRIM REFERENCE: ID21/656

EXECUTIVE SUMMARY

The financial year 2021/2022 will see the fourth delivery of the Dubbo Region Local Government Area's (LGA) Destination Development Partnership Program which sets actions and initiatives to build visitor demand and attract new residents. Engagement of 2021/2022 partners in the Program will commence in May 2021 after an extension was granted to the 2019/2020 Program supporting tourism businesses through uncertainty of COVID-19 impacts.

The Program is underpinned by the development of key print, digital and out-of-home targeted marketing collateral.

Since the inception of the program, it is proven that the marketing undertaken through this collaborative approach is able to reach greater audiences and penetrate new markets and is underpinned by the production of the regionally positioned suite of guides.

This report seeks the concurrence of Council on price points for various entries into the Program whereby benefits to business are commensurate with the level of investment. These prices have been based on previous programs, price matched with similar marketing offerings and based on the ability to provide funds back to destination marketing activity. The prices have only been increased according to approximately Consumer Price Index (CPI) from the previous program in 2019/2020. The costings for the 2019/2020 Program did not increase on the previous years to assist drought effected businesses to still participate in this important program for these businesses and the Dubbo Region.

This report does not include costings of the Visitor Information Centre (VIC) Partnership Program, which is a separate promotional program run through the Regional Visitor Information Centres and which will be updated through the revenue policy normal procedures. This report also does not include costings for the Event Attraction Partnership Program which has been run a separate program since the creation of Council's Regional Events branch.

FINANCIAL IMPLICATIONS

The Destination Partnership Program is funded from the Economic Development and Marketing operational budget. Contributions from Industry, via partnership fees, enable the production of key marketing materials and extend Council's investment in larger scale destination branded campaigns to attract visitors to the region.

POLICY IMPLICATIONS

There are no policy implications arising from this report.

RECOMMENDATION

- 1. That the report of the Manager Economic Development and Market, dated 23 April 2021, be noted.**
- 2. That the costs for businesses to collaborate in destination marketing activities as set out in the report be approved.**

Joanna Howard

Manager Economic Development and Marketing

BACKGROUND

Dubbo Regional Council's Economic Development and Marketing Branch has delivered on three Destination Partnership Programs for the Dubbo Region LGA. Development and implementation of destination marketing activity is also a continued outcome of the community strategic plans represented again in the Dubbo Region 2040 Community Strategic Plan and has been implemented through this process of fee for marketing product under the former Dubbo City Council for some 10 years. Elements of the Destination Partnership Program such as marketing campaigns also deliver on strategic priorities identified by the Regional Economic Recovery Taskforce in 2020.

The Dubbo Regional Destination Partnership Program currently focuses on two key target markets. Each program is delivered in partnership with local businesses who share target markets of visitor and new resident attraction with marketing activity underpinned by the production of aspirational guides and content across dubbo.com.au and visitwellington.com.au.

Benefits provided to businesses are commensurate with the level of investment and can range from advertising in one or more of the printed guides, digital marketing, attendance at new resident events, electronic direct marketing and out-of-home advertising.

Prior to each program, a partnership prospectus is created that clearly sets out entry levels into the program and benefits aligned to each entry point.

Partnership fees from this collaborative approach to destination marketing enables the Dubbo Region to undertake marketing in partnership with Destination NSW, direct marketing to key event attraction markets and support initiatives to attract and retain investment in the Region.

Partnership fees have increased by approximately CPI only since the previous program, with the inclusion of new low cost entry level partnership options to allow smaller or establishing businesses an opportunity to join the program without the need for a larger financial investment. These small cost increases and new levels of partnership will allow Council to deliver a quality market product without a significant cost increase to industry.

The Destination Partnership Program is also the driving program underpinning the ongoing strategic marketing partnership with the Great Western Plains Councils (Warrumbungles, Coonamble, Narromine, Gilgandra and Warren). This partnership has been ongoing since the Great Western Plains brand was developed in 2014.

The 2019/2020 Destination Partnership Program delivered significantly positive results to the visitor and new resident economies in spite of the ongoing challenges to the Region by drought, bushfires and the COVID-19 pandemic. Council's ongoing commitment to destination marketing ensured that the Dubbo Region brand experienced growth and participating businesses experienced positive flow on effects and received continuing

exposure. The 2019/2020 program was extended by six months to ensure that businesses received maximum value for their investment in the program.

Some highlights and key outcomes of the 2019/2020 Destination Partnership Program have been included below for reference:

- Over 3.7 million in social media activity reach
- Over 186,000 website sessions to Dubbo.com.au
- Over 140,000 YouTube video views
- Five TV campaigns executed across three networks within a drive market of Dubbo
- An on-site activation and marketing execution delivered in collaboration with the Great Big Adventure Pass partners in Charlestown Square Shopping Centre across the 2020 Australia Day weekend
- Over 1.2 million transit advertising impressions
- Collaborative partnership with Rod Pilon Transport to establish a branded B double transporting regularly between Dubbo and Melbourne on the Newell Highway
- Over 43,000 direct mail recipients
- Three supersite billboards in Newcastle, Parramatta and Rozelle (Sydney)
- In shopping centre advertising in seven shopping centres across the Newcastle region, with over 466,000 advertisement plays scheduled
- PR executions in collaboration with Destination NSW on the TODAY Show, Sunrise, Daily Telegraph, Sydney Morning Herald, Canberra Times and the Australia Day Live video road trip series undertaken by Department of Premier and Cabinet
- Independent PR executions in Australian Traveller magazine, the Newcastle Herald and the Byron Bay Echo
- An estimated 2.56 million visitors to the Dubbo Region between September 2019 and December 2020.

REPORT

The Destination Partnership Program in 2021/2022 will focus on visitor and new resident markets only as the Dubbo Regional Council Events Unit delivers marketing activity and a guide targeting the event attraction market as a separate program, but these programs will be considerate of each other in their support delivery for business and attraction. The program will continue with a structure of two core pillars being Visitor Attraction and New Resident Attraction with new elements of digital strategy and active public relations (PR) being applied to the programs.

The Visitor and New Resident Attraction programs will maintain its print components, as it has been identified that a tangible component is an essential tool in communicating and connecting with these target markets.

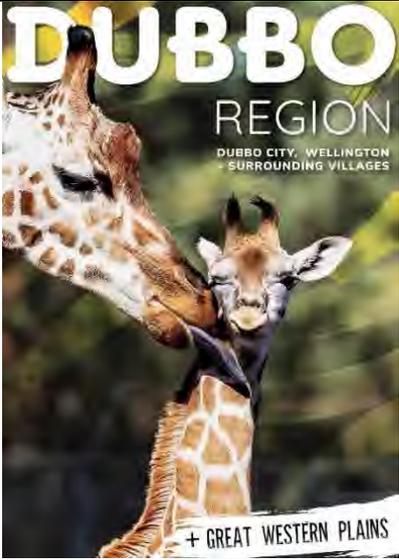
The printed guides are a tangible execution of the overall strategy that has been designed with a multi-channel approach in order to deliver optimum results for Partner investment.

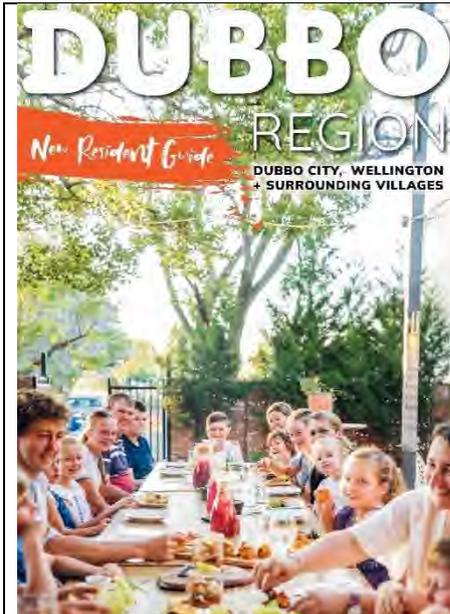
Entry points and associated benefits will be in line with the former 2019/2020 Destination Development Partnership Prospectus with, and as outlined above, a renewed focus on digital marketing and PR.

Entry points and return benefits have also been scoped for Great Western Plains Council partners to allow for a continuation of the growth of the Great Western Plains brand and collaborative marketing strategy. Additionally, a new entry level directory listing partnership has been scoped for businesses located in the Great Western Plains LGAs that also service the Dubbo LGA and enhance the visitor experience offering (for example, touring companies).

The New Resident attraction program has been expanded to link more closely with the established Dubbo Skills brand and skilled worker attraction marketing activity. These partnering businesses will be supported through platform advertising on the www.dubboskills.com.au website and in the New Resident Guide with its benefit levels.

An outline of the 2021/2022 Destination Development Partnership is as follows:

	<p><u>Visitor Attraction</u> Key deliverables:</p> <ul style="list-style-type: none">• 120,000 Dubbo + Wellington and Great Western Plains Visitor Guides• Online flip-book guide• Update of content on dubbo.com.au• Collaborative marketing with Destination NSW as opportunities arise• In-destination visitor information across visitor centres and signage• Digital marketing• Direct marketing campaigns targeting family and empty nester markets• Seasonal marketing campaigns
<p>Premier Partnership \$7245 (inc GST) – Full page advertisement, priority placement in guide + 18 benefits Level 1 Partnership \$3900 (inc GST) – Half page advertisement + 16 benefits Level 2 Partnership \$1785 (inc GST) – Quarter page advertisement + 13 benefits Level 3 Partnership \$945 (inc GST) – One eighth page advertisement + 12 benefits Directory Listing \$660 (inc GST) – One listing in the printed guide directory + 11 benefits Great Western Plains Partner \$5,500 (inc GST) – Inclusion in Great Western Plains feature plus destination campaign activity Great Western Plains Directory Listing \$660 (inc GST) – One listing in the printed guide directory + three benefits</p>	



New Resident Attraction

Key deliverables:

- 10,000 New Resident Guides
- Online flip-book guide
- Update of content on dubbo.com.au
- In-destination new resident information
- New resident events

Level 1 Partnership \$945 (inc GST) – One eighth page advertisement + 12 benefits

Directory Listing \$660 (inc GST) – One listing in the printed guide directory + nine benefits

SUMMARY

Council's Economic Development and Marketing Branch has developed and delivered three 18-month programs designed to drive visitation, build event activity and attract new residents to the Dubbo Region LGA, this report is to receive concurrence from Council on the pricing of the fourth Regional Program focusing on visitor and new resident attraction.

Each program has been designed to create value for businesses and opportunities for local industry to leverage from destination marketing activity. A collaborative approach to destination marketing results in value for industry partners and higher investment level for large scale destination marketing activity for the Dubbo Region.

Partnership fees have increased by approximately CPI only since the previous program, with the inclusion of new low cost entry level partnership options to allow smaller or establishing businesses an opportunity to join the program without the need for a larger financial investment. These small cost increases and new levels of partnership will allow Council to deliver a quality market product without a significant cost increase to industry.

Engagement with industry on the 2021/2022 Partnership program will commence in May 2021. This report seeks concurrence of Council of 2021/2022 Destination Development Partnership fees.