

**The Model Code of Conduct
for Local Councils in NSW**

Code of Conduct for Council Staff

2020

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PART 1 **INTRODUCTION**

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

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

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

Section 440 of the Act requires every Council (including county councils) and joint organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. Council’s adopted code of conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not “council officials” for the purposes of the Model Code of Conduct (eg volunteers, contractors and members of wholly advisory committees).

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

Members of staff of Council, delegates of councils, and any other person Council’s adopted code of conduct applies to, must comply with the applicable provisions of Council’s code of conduct. It is the personal responsibility of Council officials to comply with the standards in the code and to regularly review their personal circumstances and conduct with this in mind.

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

PART 2 **DEFINITIONS**

In this code the following terms have the following meanings:

complaint	a code of conduct complaint made for the purposes of clauses 2.1 and 4.2 of the Procedures.
conduct	includes acts and omissions
council official	includes Members of staff and any other person Council's adopted code of conduct applies to
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 2.8
The Act	the <i>Local Government Act 1993</i>
the OLG	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 <i>Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW</i> prescribed under the Regulation
the Regulation	the <i>Local Government (General) Regulation 2021</i>

PART 3 GENERAL CONDUCT OBLIGATIONS

General conduct

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

Fairness and equity

- 3.3 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.4 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.
- 3.5 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 1.3 or 1.4.

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

Work health and safety

- 3.12 All Council officials, owe statutory duties under the *Work Health and Safety Act 2011* (WHS Act). You must comply with your duties under the WHS Act and your responsibilities under any policies or procedures adopted by Council to ensure workplace health and safety. Specifically, you must:
- a) take reasonable care for your own health and safety;
 - b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons;
 - c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WHS Act and any policies or procedures adopted by the Council to ensure workplace health and safety;
 - d) cooperate with any reasonable policy or procedure of the Council relating to workplace health or safety that has been notified to Council staff;
 - e) report accidents, incidents, near misses, to the General Manager or such other staff member nominated by the General Manager, and take part in any incident investigations; and

- f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WHS Act in relation to the same matter.

Land use planning, development assessment and other regulatory functions

- 3.13 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.

Obligations in relation to meetings

- 3.15 You must comply with rulings by the chair at Council and committee meetings or other proceedings of Council unless a motion dissenting from the ruling is passed.
- 3.16 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 Council (such as, but not limited to, workshops and briefing sessions).
- 3.17 You must not engage in conduct that disrupts Council or committee meetings or other proceedings of Council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.

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 2.3.
- 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 2.6.
- 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 2.3:
- (a) Your “relative” is any of the following:
 - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child; or
 - ii) your spouse’s or de facto partner’s parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child; or
 - 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 2.3(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, council or a statutory body, or is employed by the Crown; or
 - (c) just because the person is a member of, or a delegate of council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

What interests do not have to be disclosed?

- 4.6 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 Council in the same manner and subject to the same conditions as apply to persons who are not subject to this code;
 - (e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not);
 - (f) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company;
 - (g) an interest you have arising from the proposed making by Council of an agreement between Council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
 - (h) an interest you have arising from the making by 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 Council at the expense of your relative of any work or service in connection with roads or sanitation; or
 - ii) security for damage to footpaths or roads; or
 - iii) any other service to be rendered, or act to be done, by Council by or under any Act conferring functions on Council, or by or under any contract
 - (i) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person; and
 - (j) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Council committee member

4.7 For the purposes of clause 2.6, “relative” has the same meaning as in clause 2.4, but includes your spouse or de facto partner.

What disclosures must be made by a designated person?

4.8 Designated persons include:

- (a) the General Manager;
- (b) other senior staff of Council for the purposes of section 332 of the Act;
- (c) a person (other than a member of the senior staff of Council) who is a member of staff of Council or a delegate of Council and who holds a position identified by Council as the position of a designated person

because it involves the exercise of functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the person's duty as a member of staff or delegate and the person's private interest; and

- (d) a person (other than a member of the senior staff of Council) who is a member of a committee of Council identified by Council as a committee whose members are designated persons because the functions of the committee involve the exercise of Council's functions (such as regulatory functions or contractual functions) that, in their exercise, could give rise to a conflict between the member's duty as a member of the committee and the member's private interest.

4.9 A designated person:

- (a) must prepare and submit written returns of interests in accordance with clause 2.18, and
- (b) must disclose pecuniary interests in accordance with clause 2.10.

4.10 A designated person must disclose in writing to the General Manager (or if the person is the General Manager, to Council) the nature of any pecuniary interest the person has in any Council matter with which the person is dealing as soon as practicable after becoming aware of the interest.

4.11 Clause 2.10 does not require a designated person who is a member of staff of Council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.

4.12 The General Manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.

4.13 A disclosure by the General Manager must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of Council and Council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

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

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

4.15 The staff member's manager or the General Manager must, on receiving a disclosure under clause 2.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by a council committee member?

- 4.16 A Council committee member must disclose pecuniary interests in accordance with clause 2.25 and comply with clause 2.26.
- 4.17 For the purposes of clause 2.16, a “Council committee member” includes a member of staff of Council who is a member of the committee.

Disclosure of interests in written returns

- 4.18 A designated person must make and lodge with the General Manager a return in the form set out in schedule 2 to this code, disclosing the designated person’s interests as specified in schedule 1 to this code within 3 months after:
- (a) becoming a designated person; and
 - (b) 30 June of each year; and
 - (c) the designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).
- 4.19 A person need not make and lodge a return under clause 2.18, paragraphs (a) and (b) if:
- (a) they made and lodged a return under that clause in the preceding 3 months, or
 - (b) they have ceased to be a designated person in the preceding 3 months.
- 4.20 A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 4.21 The General Manager must keep a register of returns required to be made and lodged with the General Manager.
- 4.22 Returns required to be lodged with the General Manager under clause 2.18(a) and (b) must be tabled at the first meeting of Council after the last day the return is required to be lodged.
- 4.23 Returns required to be lodged with the General Manager under clause 2.18(c) must be tabled at the next Council meeting after the return is lodged.
- 4.24 Information contained in returns made and lodged under clause 2.18 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

Note: For the purpose of clauses 2.25 to 2.32, a “council committee member” includes a member of staff of Council who is a member of a Council committee.

Disclosure of pecuniary interests at meetings

- 4.25 A Council committee member who has a pecuniary interest in any matter with which Council is concerned, and who is present at a meeting of the committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.26 The Council committee member must not be present at, or in sight of, the meeting of the committee:
- (a) at any time during which the matter is being considered or discussed by the committee; or
 - (b) at any time during which the committee is voting on any question in relation to the matter.
- 4.27 A disclosure made at a meeting of a Council committee must be recorded in the minutes of the meeting.
- 4.28 A general notice may be given to the General Manager in writing by a Council committee member to the effect that the Council committee member, or the Council committee member’s spouse, de facto partner or relative, is:
- (a) a member of, or in the employment of, a specified company or other body; or
 - (b) a partner of, or in the employment of, a specified person.
- Such a notice is, unless and until the notice is withdrawn or until the end of the term of Council in which it is given (whichever is the sooner), sufficient disclosure of the Council committee member’s interest in a matter relating to the specified company, body or person that may be the subject of consideration by the Council committee after the date of the notice.
- 4.29 A Council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the Council committee member has an interest in the matter of a kind referred to in clause 2.6.
- 4.30 A person does not breach clauses 2.25 or 2.26 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.31 The Minister for Local Government may, conditionally or unconditionally, allow a Council committee member who has a pecuniary interest in a matter with which Council is concerned to be present at a meeting of the committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion that it is in the interests of the electors for the area to do so.
- 4.32 A Council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause

2.31, must still disclose the interest they have in the matter in accordance with clause 2.25.

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 2.1 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 3.2.
- 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 3.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of Council staff other than the General Manager, such a disclosure is to be made to the staff member's manager. In the case of the General Manager, such a disclosure is to be made to the Mayor.
- 5.7 If a disclosure is made at a 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 3.6.
- 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 2.1, 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 2.4 or another person from the Council official's extended family that the Council official has a close personal relationship with, or another person living in the same household;

- b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship;
- c) an affiliation between the Council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a Council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation;
- d) membership, as Council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of Council and the organisation are potentially in conflict in relation to the particular matter;
- e) a financial interest (other than an interest of a type referred to in clause 2.6) that is not a pecuniary interest for the purposes of clause 2.1; and
- f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.

5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:

- a) by not participating in consideration of, or decision making in relation to, the matter in which 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 committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 2.25 and 2.26.

5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.

5.12 If you are a member of staff of Council other than the General Manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the General Manager, the decision on which option should be

taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the Mayor.

Note: For the purpose of clauses 3.13 and 3.14, a “council committee member” includes a member of staff of council who is a member of a council committee.

Loss of quorum as a result of compliance with this Part

- 5.13 The Minister for Local Government may, conditionally or unconditionally, allow a Council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion that it is in the interests of the electors for the area to do so.
- 5.14 Where the Minister exempts a committee member from complying with a requirement under this Part under clause 3.13, the committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 3.6.

Other business or employment

- 5.15 The General Manager must not engage, for remuneration, in private employment, contract work or other business outside the service of Council without the approval of Council.
- 5.16 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of Council that relates to the business of Council or that might conflict with the staff member’s Council duties unless they have notified the General Manager in writing of the employment, work or business and the General Manager has given their written approval for the staff member to engage in the employment, work or business.
- 5.17 The General Manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of Council that relates to the business of Council, or that might conflict with the staff member’s Council duties.
- 5.18 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of Council if prohibited from doing so.
- 5.19 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 Council; and
 - 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

- 5.20 You may have reason to deal with 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.
- 5.21 You must undertake any personal dealings you have with Council in a manner that is consistent with the way other members of the community deal with 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) items with a value of \$10 or less;
 - b) a political donation for the purposes of the *Electoral Funding Act 2018*
 - c) a gift provided to Council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual Council official or someone personally associated with them;
 - d) benefit or facility provided by Council to an employee;
 - e) attendance by a Council official at a work-related event or function for the purposes of performing their official duties; or
 - f) free or subsidised meals, beverages or refreshments provided to Council officials in conjunction with the performance of their official duties such as, but not limited to:
 - i) the discussion of official business;
 - ii) work-related events such as Council-sponsored or community events, training, education sessions or workshops;
 - iii) conferences;
 - iv) Council functions or events; and
 - 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 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 4.7, accept any gift or benefit of more than token value as defined by clause 4.9;

- e) accept an offer of cash or a cash-like gift as defined by clause 4.13, regardless of the amount;
- f) participate in competitions for prizes where eligibility is based on the Council being in or entering into a customer–supplier relationship with the competition organiser; or
- g) personally benefit from reward points programs when purchasing on behalf of Council.

6.6 Where you receive a gift or benefit of any value other than one referred to in clause 4.2, you must disclose this promptly to your manager or the General Manager in writing. The recipient, manager, or General Manager must ensure that, at a minimum, the following details are recorded in 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 of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to Council, unless the nature of the gift or benefit makes this impractical.

Gifts and benefits of token value

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

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

Gifts and benefits of more than token value

6.9 Gifts or benefits that exceed \$100 in value are gifts or benefits of more than token value for the purposes of clause 4.5(d) and, subject to clause 4.7, must not be accepted.

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

6.11 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of

earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$100 in value.

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

“Cash-like gifts”

6.13 For the purposes of clause 4.5(e), “cash-like gifts” include but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

Improper and undue influence

6.14 You must not use your position to influence other Council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else.

6.15 You must not take advantage (or seek to take advantage) of your status or position with Council, or of functions you perform for council, in order to obtain a private benefit for yourself or for any other person or body.

PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALS

Obligations of Councillors and Administrators

- 7.1 Council is a body politic. Councillors or Administrator/s are the governing body of the Council. Under section 223 of the Act, the role of the governing body of the Council includes the development and endorsement of the strategic plans, programs, strategies and policies of the Council, including those relating to workforce policy, and to keep the performance of the Council under review.
- 7.2 Councillors or Administrators must not:
- a) direct Council staff other than by giving appropriate direction to the General Manager by way of Council or committee resolution, or by the Mayor or Administrator exercising their functions under section 226 of the Act;
 - b) in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of Council in the exercise of the functions of the staff member; and
 - c) contact a member of the staff of 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 Council and the General Manager.

Obligations of staff

- 7.3 Under section 335 of the Act, the role of the General Manager includes conducting the day-to-day management of Council in accordance with the strategic plans, programs, strategies and policies of Council, implementing without undue delay, lawful decisions of Council and ensuring that the Mayor and other Councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.
- 7.4 Members of staff of Council must:
- a) give their attention to the business of Council while on duty;
 - b) ensure that their work is carried out ethically, efficiently, economically and effectively;
 - c) carry out reasonable and lawful directions given by any person having authority to give such directions;
 - d) give effect to the lawful decisions, policies and procedures of Council, whether or not the staff member agrees with or approves of them; and
 - e) ensure that any participation in political activities outside the service of Council does not interfere with the performance of their official duties.

Inappropriate interactions

- 7.5 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 6.6, Council staff refusing to give information that is available to other Councillors to a particular Councillor;
- d) Councillors and Administrators who have lodged an application with Council, discussing the matter with Council staff in staff-only areas of Council;
- e) Councillors and Administrators being overbearing or threatening to Council staff;
- f) Council staff being overbearing or threatening to Councillors or Administrators;
- g) Councillors and Administrators making personal attacks on Council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 1 of this code in public forums including social media;
- h) Councillors and Administrators directing or pressuring Council staff in the performance of their work, or recommendations they should make;
- i) Council staff providing ad hoc advice to Councillors and Administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community; and
- j) Council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals.

PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES

Councillor and administrator access to information

- 8.1 The General Manager is responsible for ensuring that Councillors and Administrators can access information necessary for the performance of their official functions. The General Manager and Public Officer are also responsible for ensuring that members of the public can access publicly available Council information under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 8.2 The General Manager must provide Councillors and Administrators with the information necessary to effectively discharge their official functions.
- 8.3 Members of staff of Council must provide full and timely information to Councillors and Administrators sufficient to enable them to exercise their official functions and in accordance with Council procedures.
- 8.4 Members of staff of Council who provide any information to a particular Councillor in the performance of their official functions must also make it available to any other Councillor who requests it and in accordance with Council procedures.
- 8.5 Councillors and Administrators who have a private interest only in Council information have the same rights of access as any member of the public.
- 8.6 Despite clause 6.4, Councillors and Administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to Council information in relation to the matter unless the information is otherwise available to members of the public, or Council has determined to make the information available under the GIPA Act.

Refusal of access to information

- 8.7 Where the General Manager or Public Officer determine to refuse access to information requested by a Councillor or Administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the Councillor or Administrator to perform their official functions (see clause 6.2) 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 6.6). The General Manager or Public Officer must state the reasons for the decision if access is refused.

Use of certain council information

- 8.8 In regard to information obtained in your capacity as a Council official, you must:
 - a) subject to clause 6.13, only access council information needed for council business;
 - b) not use that Council information for private purposes;
 - c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from

any information to which you have access by virtue of your position with Council; and

- d) only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

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

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

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

8.11 When dealing with personal information you must comply with:

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

Use of council resources

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

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

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

- 8.14 You must be scrupulous in your use of Council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.
- 8.15 You must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 8.16 You must not use Council resources (including Council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 8.17 You must not use the Council letterhead, Council crests, Council email or social media or other information that could give the appearance it is official Council material:
- a) for the purpose of assisting your election campaign or the election campaign of others; or
 - b) for other non-official purposes.
- 8.18 You must not convert any property of the Council to your own use unless properly authorised.

Internet access

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

Council record keeping

- 8.20 You must comply with the requirements of the *State Records Act 1998* and Council's records management policy.
- 8.21 All information created, sent and received in your official capacity is a Council record and must be managed in accordance with the requirements of the *State Records Act 1998* and Council's approved records management policies and practices.
- 8.22 All information stored in either soft or hard copy on Council supplied resources (including technology devices and email accounts) is deemed to be related to the business of Council and will be treated as Council records, regardless of whether the original intention was to create the information for personal purposes.
- 8.23 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

8.24 Councillors and Administrators must not enter staff-only areas of Council buildings without the approval of the General Manager (or their delegate) or as provided for in the procedures governing the interaction of Councillors and Council staff.

8.25 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 7.1, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- a) to bully, intimidate or harass another Council official;
 - b) to damage another Council official's reputation;
 - c) to obtain a political advantage
 - d) to influence a Council official in the exercise of their official functions or to prevent or disrupt the exercise of those functions;
 - e) to influence Council in the exercise of its functions or to prevent or disrupt the exercise of those functions;
 - f) to avoid disciplinary action under the Procedures;
 - g) to take reprisal action against a person for making a complaint alleging a breach of this code;
 - h) to take reprisal action against a person for exercising a function prescribed under the Procedures; or
 - i) to prevent or disrupt the effective administration of this code under the Procedures.

Detrimental action

- 9.3 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 7.3 and 7.4, a detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss;
 - b) intimidation or harassment;
 - c) discrimination, disadvantage or adverse treatment in relation to employment;
 - d) dismissal from, or prejudice in, employment; or
 - e) disciplinary proceedings.

Compliance with requirements under the Procedures

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

9.13 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the *Public Interest Disclosures Act 1994*.

Complaints alleging a breach of this Part

9.14 Complaints alleging a breach of this Part by the General Manager are to be managed by the OLG. This clause does not prevent the OLG from referring an alleged breach of this Part back to Council for consideration in accordance with the Procedures.

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

