



Murrumbateman Playground Project Committee

Monday 16 October 2023

5.00pm

Function Room, Murrumbateman Country Inn

ATTACHMENTS TO REPORTS

Murrumbateman Playground Project Committee

Attachments to Reports

Page No.

4.1 Election of a Chair

Attachment A. Guidelines for Advisory Committees and Committees of Council.....	3
---	---

4.2 Code of Conduct, Committee Guidelines & Media Policies

Attachment A. Code of Conduct.....	47
Attachment B. Code of Conduct Procedures.....	109
Attachment C. Communication with the Media Policy	161
Attachment D. Social Media Policy.....	164
Attachment E. Murrumbateman Playground Project Committee Terms of Reference	169



**Guidelines for Advisory Committees
and Committees of Council
March 2023**

Adopted by Council on 24 February 2022

Amended 24 March 2022

Amended 26 May 2022

Amended 23 March 2023

Committee Constitution

1. INTRODUCTION

Councils can form Committees and determine their functions, powers, membership and voting rights. Membership of a Council Committee is not restricted to Councillors.

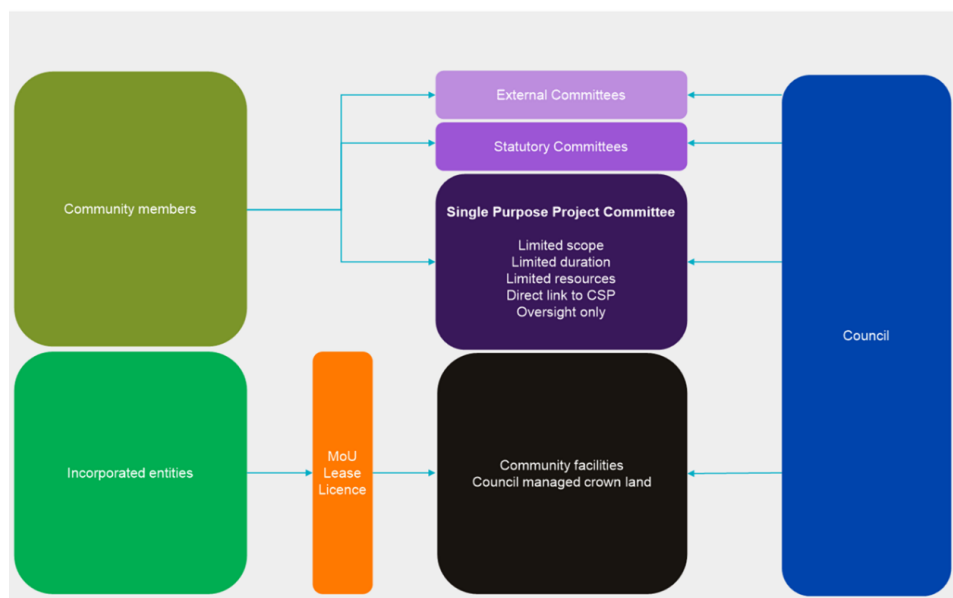
A Council Committee can be either:

- A Committee with decision-making powers as delegated by the Council. A Committee may exercise a Council function and a Council may delegate to the Committee any of its functions other than those outlined in s377 *Local Government Act 1993*. However, a Committee can exercise a Council's regulatory functions under Chapter 7 of the Act only if all its members are either Councillors or Council employees, or
- A Committee which only has the capacity to 'advise' or 'refer' matters to Council for a decision. These Committees are common and only have the delegated authority to make recommendations but not to make decisions. Such Committees often consist of experts, professional persons, government employees, community representatives and Council staff. The recommendations of this sort of Committee can assist a Council in making informed decisions on complex matters. At Yass Valley Council, these Committees are referred to as 'Advisory' Committees.

All Yass Valley Council Committees, are advisory in nature making recommendations to Council. No Committee have delegated decision making responsibilities other than procedural decisions of the Committee (e.g. adopting minutes).

Council has adopted the following framework for its Committees

Simplified committee and facility management framework



Under this framework the Committees include:

1. **Committees of Council**
 - Internally focused

2. Advisory Committees

- Provide advice to Council
- Undertake projects as directed by Council or as endorsed by Council
- Have an external focus

3. Focus Groups

- Forums (generally annually) to provide feedback to Council and staff on priorities within their terms of reference

4. Project Working Parties/Steering Committees

- Established to oversee a Council project
- Operates only for the duration of the project
- Provides guidance to the project at key milestones in accordance with the project brief to staff and/or consultants

5. External/Statutory Committees

- External to Council
- Established under separate legislation
- Council provides a representative (and in some instances may be required to provide administrative support to the Committee)

The Office of Local Government have advised that these Advisory Committees should be provided with guidelines on how to conduct their meetings and related issues. This guide has been written to provide this guidance to Council's Committee members.

Council values the contributions of individuals and community representatives who become members of Advisory Committees. The primary purpose of these Committees is to advise Council on the needs or issues of a particular community and to inform Council's decision making relating to this community. Typically, the Committee will provide advice and recommendation to Council that relate to the particular community or issue that the Committee is concerned with.

This document provides a guideline on the responsibilities of Committee members in Advisory Committees at Yass Valley. The appointed Committee members are required to observe and adhere to these guidelines.

A list of Council's Advisory Committees, Focus Groups and Project Working Parties/Steering Committees are included in **Attachment 1**. External/Statutory Committee are not covered by these Guidelines.

Members of Committees who require clarification on any matter included in these guidelines should contact Council's Manager Governance on 6226 1477.

2. PURPOSE, OBJECTIVES AND SCOPE OF COMMITTEES

2.1 WHY DOES COUNCIL HAVE ADVISORY COMMITTEES?

Advisory Committees provide a mechanism by which interested residents and experts can play an active role in the formulation of Council policy, direction and practice. Advisory Committees are an important link in Council's *Communication Engagement Strategy* with the community and are supported via other community consultative methods.

Advisory Committees are established for the entire term of Council. The term of the Committee ends at the Council election.

Separate to Advisory Committees Council may establish a Project Working Party or Steering Committee for the duration of a project (e.g. Yass Valley Settlement Strategy). The Working Party or Steering Committee is disbanded at the completion of the project. These Working Parties or Steering Committees will have their own terms of reference which is generally aligned with the project brief. They will meet with the project consultants at key stages and provide general guidance. The Working Party or Steering Committee will not supervise the consultants. The input of the group will assist the consultant and Council staff in presenting the final outcomes for the project to Council for determination.

2.2 OBJECTIVES

Advisory Committees are established by Council to:

- Harness the views and expertise of the wider community
- Assist Council in its understanding of, and approach to, specific or localised issues, initiatives or community assets
- Provide a structured approach to the ongoing involvement of community members in Council affairs and the democratic process

2.3 SCOPE AND LIMITATION OF POWERS

The scope of each Advisory Committee is outlined in its charter. As Advisory Committees are established by Council – they do not have the authority to instruct staff or to make decisions on Council's behalf.

The Advisory Committees will observe any rules and regulations made by the Council.

2.4 DELEGATION OF FUNCTIONS AND DECISION MAKING

Under the *Local Government Act 1993*, Council is able to delegate some of its functions to a Committee of Council. However, all of the Advisory Committees as outlined in this guideline have not been granted any delegated authority and therefore they serve to provide recommendations and advice for Council. In other words, Advisory Committees do not have the power to make a final determination on any matter referred to them.

2.5 HOW ARE ADVISORY COMMITTEES ESTABLISHED?

Advisory Committees are established by a Council resolution in accordance with clause 260 *Local Government (General) Regulation 2005*.

The Committees are established by Council following each Local Government election and remain in place until the next election.

Prior to establishing an Advisory Committee, Council will set out the following criteria:

- The terms of reference for the Committee
- The expertise or relevant background which community members should possess
- The size (minimum and maximum) of the Committee
- Quorum requirements
- Frequency of meetings (minimum and regularity)
- Any specific interest groups that are to be represented on the Committee (e.g. government departments, community organisations etc)
- Its term and tenure of members

This Guideline serves to address these elements.

2.6 TERMS OF REFERENCE

The Advisory Committee will be responsible for providing advice to Council in accordance with the Committee's terms of reference. Details of the terms of reference of each Committee are presented in **Attachment 2** of this guide.

2.7 CODE OF CONDUCT

Council has adopted a *Code of Conduct* that is applicable to all Council officials – that is Councillors, administrators, staff, members of Council Committees and delegates of the Council. This Code sets the minimum requirements of conduct for Council officials in carrying out their functions.

Breaches of the Code by Advisory Committee members may result in:

- Censure
- Requirement to apologise
- Prosecution
- Dismissal from Committee membership

As Council Committees are operating in conjunction with Council, it is important for Committee members to be aware of and comply with the contents of the Code. Your obligations as an Advisory Committee member are outlined in Part 3 of the *Code of Conduct*. Training on the Code will be provided as part of the induction process for all Advisory Committee members.

It is the responsibility of the Chair of the meeting to inform and take necessary action with respect to the members in relation to this Code.

2.8 COUNCIL OBLIGATIONS

In constituting an Advisory Committee, Council agrees to:

- Give due and proper consideration to all recommendations and suggestions put forward
- Give members feedback on how their recommendations have been used
- Encourage member participation and meeting attendance
- Respond within a reasonable timeframe to requests for relevant information
- Provide administrative resources to assist in the smooth operation of the Committee
- Accurately record and represent the views of the Committee.

2.9 MEMBER OBLIGATIONS

The obligations of Committee members are to:

- Attend meetings and participate in discussions
- Adequately review any agenda attachments or documents as required prior to meetings
- Report their views and, where known, those of the Yass Valley community
- Give feedback from meetings to the wider community where possible
- Allow all Committee members to present their views and opinions
- Suggest agenda items
- Make suggestions regarding improvements to reference and consultative Committees

- Work within the timeframe of the Committee charter and structure
- Clearly declare any conflict of interest regarding any issue under discussion
- Maintain confidentiality where appropriate
- Not speak publicly such as to the media on behalf of Council
- Only maintain membership to one Committee at any time

The obligations as a Council Committee member are outlined in the Office of Local Government's publication titled *Your obligations as a Council Committee member* dated March 2013.

3 MEMBERSHIP - ADVISORY COMMITTEES

The current Advisory Committees are details in [**Attachment 1**](#). The terms of reference and membership details for the Advisory Committees are detailed in [**Attachment 2**](#).

3.1 TERM

The term for Advisory Committees will typically be four years or until the end of the Council term.

Should the Chairperson wish to change the membership at any time, this would then be a matter for Council consideration and resolution.

At the time of the Local Government elections, all Advisory Committee members will cease to hold office.

3.2 COUNCILLOR MEMBERSHIP

Councillors will be appointed to Advisory Committees at a Council meeting following the Local Government elections.

Two Councillors (unless otherwise determined) are to be appointed to each of the Advisory Committees for the four-year term of office. This would also include a Chairperson for each Committee (with the exception of the Audit, Risk & Improvement Committee).

All other Councillors are able to attend Advisory Committee meetings in an observation only capacity.

3.3 COMMUNITY MEMBERSHIP

Community membership will vary according to the Committee and its terms of reference / charter. Representatives shall reflect areas such as the objectives and terms of reference of the charter such as expertise, experience, demographics, special interest groups that exist within or are able to contribute to the Committee and relevant government authorities.

Former Councillors and Council staff members may only apply to be appointed to a Committee after either a period of two years from their involvement with Council, or following the term of the current Council, whichever is greater.

Current staff members are not permitted to be appointed to Committees unless specified in Terms of Reference.

Council must appoint all Advisory Committee members. Appointment must take place prior to a member being conferred the responsibilities and rights as set out in this document.

Council may release individual members from the Committee at any time by a resolution of Council.

Council may also appoint any new members to a Committee at any time by a resolution of Council.

All nominations for appointment to Committees are formally submitted in writing to Council. Applicants will be reviewed against their expertise and experience and ability to contribute to the Committee in relation to its objectives and terms of reference.

3.4 DISSOLUTION OF COMMITTEE

The Council may dissolve a Committee at any time by a resolution of Council.

All Committee members are eligible for re-appointment. Council will advertise for and receive nominations, unless otherwise decided by Council.

3.5 VACATION OF OFFICE

Membership of the Committee will become vacant in the following circumstances:

- If the member resigns membership by notice in writing to the Committee
- If the member is absent for more than three consecutive meetings without prior leave of absence or an apology being accepted by the Committee, subject to confirmation by the elected Council of the resignation
- If the member ceases to be a member of the organisation which he/she represents
- Upon the death of the member
- If the member becomes a mentally incapacitated person
- If a member is found to be in breach of the Code of Conduct

Council shall advertise for nominations for vacancies, unless otherwise decided by Council.

3.6 CHAIRPERSON

There is only one formal position on Committees – Chairperson. This role is appointed by Council resolution for the four-year term.

The Chairperson is usually the spokesperson for the Committee and therefore needs to be certain that the Committee is running smoothly and achieving its aims and objectives.

If the Chairperson is not present at the time designated for the meeting or is not available to preside at a meeting, the Committee must elect a member of the Committee to act as the Chairperson for that meeting only in accordance with clause 267 Regulation (subject to Committee membership and quorum requirements).

3.6.1 RESPONSIBILITIES OF THE CHAIRPERSON

The Chairperson generally has the following specific duties, which make up the major part of their responsibility:

- (i) Before a meeting:
 - To consult with the relevant Director or Manager for the preparation of an agenda setting out the terms of business to be considered
 - Ensures the meeting is properly convened in accordance with the organisation's rules, such as proper notice of meeting is given and that a quorum is present
- (ii) During the meeting:

- Chairs all meetings, opens meeting, welcomes and introduces members and guests keeps individuals and the meeting focused on the topics being discussed and encourages all members to participate, ensure adequate opportunity is given to members who wish to speak
 - Ensures correct meeting procedures are followed and control of the meeting is maintained, keeping track of time makes sure members are aware of decisions being made and that the minute taker has recorded decisions of the meeting.
 - Acts impartially and uses discretionary powers in the best interests of members and in accordance with the meeting practices
 - Ensures all statutory regulations and organisation's rules (such as Code of Conduct) are observed
 - Closes meetings after business at hand has been properly concluded.
- (iii) Other responsibilities:
- Be aware of certain issues and procedures and the importance of establish and maintaining a working relationship with the Council
 - Approve the meeting minutes prior to them being reported to Council
 - Advise and report to Council on the ongoing suitability of current and potential members
 - Speak on behalf of the Committee where appropriate

4 MEETING PROCEDURES FOR ADVISORY COMMITTEES

The Office of Local Government takes the view that Council Committees that have members who are not Councillors (that is Council staff and/or community representatives), the Committee's meeting procedures are to be determined by the Council. It may, but does not have to, follow the procedures outlined in the Regulation. Therefore, meeting procedures for Advisory Committees are not officially bound by the Regulation.

However, as the Regulation (in relation to meetings) contains many essential elements to what is considered good meeting practices, this guide to Committee meeting procedures therefore has used the Regulation as a basis for its development. Elements of the Regulation that have been included in this guide for the purpose of facilitating Committee meetings are:

- Due notice of meetings to Committee members
- Entitlement to attend meetings
- Voting
- Minutes
- Audio recording of meetings

Although not specifically bound by the Regulation in relation to meeting procedures, the Chair may find it useful to use the Regulation as a guide to good meeting practice.

4.1 NOTICE OF MEETINGS

Notice of Advisory Committee meetings will be provided to members, along with all Councillors, at least three days prior to the meeting. The notice will specify the time, place and date of the meeting and the business proposed to be transacted. Notice of less than three days may be given of a meeting in an emergency.

4.2 ATTENDANCE

Members of Advisory Committee must be either in attendance at the meeting to be eligible of vote or alternatively may participate in the meeting (including voting) via an on line meeting platform.

4.3 NON-MEMBERS ENTITLED TO ATTEND COMMITTEE MEETINGS

Councillors who are not members of the Advisory Committee are entitled to attend a Committee meeting. However, such Councillors are observers only and are not entitled to add items to the meeting agenda, move or second a motion or vote at the meeting.

Advisory Committees are also open meetings so members of the public may attend as observers.

4.4 QUORUM/STARTING TIME FOR MEETINGS

Meetings are to commence at the time designated for the meeting. The quorum for an Advisory Committee will be half plus one unless otherwise resolved by Council. The quorum will comprise of members present at the meeting venue and those via an online meeting platform. If a quorum is not present within 30 minutes of the designated commencement time, then the meeting must be adjourned.

Members who select to participate in the meeting remotely via an on line meeting platform will be included in the quorum.

4.5 AGENDA

The agenda is an organised list of the business, in order, that will be transacted at the meeting. A copy of the agenda will be distributed to all the Committee members at least three days before the commencement of the meeting.

Each item of business to be discussed at the meeting needs to be placed on the agenda. Committee members may request the Chairperson or the assigned staff member for a matter to be included in the agenda prior to its distribution.

Agenda items must relate to the Committee's terms of reference.

The Agenda Template is included in **Attachment 3**.

4.6 ANNUAL REPORT

At the end of each financial year the Advisory Committee is to prepare an Annual Report. The format for the Annual Report is included in **Attachment 4**.

4.7 CONDUCT OF BUSINESS

Advisory Committees are to be conducted more informal the Council meetings and will not strictly follow the meeting procedures in the *Local Government (General) Regulation 2005*. The Regulation will be used merely as a guide.

Each item of business is discussed in the order in which it appears on the agenda. Adequate time is to be allowed for discussion on important issues.

For some matters, it will be necessary to attach other relevant information to the agenda to inform and direct discussion. Such information is to be circulated with the agenda to all members and Councillors.

While voting can be used as a mechanism for members to express their agreement or disagreement voting is only needed in circumstances in which consensus is not clear. The meeting minutes will record the mover and seconder for each decision / recommendation of the Committee.

A member who is present but who abstains from voting on a motion is counted as having voted against the motion. Members who are not present may not vote by proxy or any other means.

4.8 MINUTES OF MEETINGS

Minutes of the Committee meeting will only record the procedural decisions (e.g. adoption of minutes) and recommendations of the Committee to Council. The minutes are not a record of the debate / discussion at the meeting.

Committee minutes will be presented to the next available Council meeting for noting or consideration of any recommendations.

It will be the responsibility of Council staff attending the meeting to record the minutes of the meeting.

The minutes will be distributed to Committee members within five working days of the meeting.

The Minute Template is included in [Appendix 4](#).

4.9 CHIEF EXECUTIVE OFFICER AND STAFF ATTENDANCE AT MEETINGS

The Chief Executive Officer is entitled to attend Advisory Committee meetings.

The Chief Executive Officer shall ensure that appropriate staff attend the meetings.

The role of staff attending will be to offer advice and to answer questions within their individual fields of expertise and experience. Council staff are not permitted to vote.

4.10 WORKING GROUPS

The Advisory Committee may appoint Working Groups to report to the Committee. The Working Group must include a member of the Advisory Committee, who will act as the Chair, however persons from outside the Committee may be invited to participate.

These Working Groups have no formal standing and must report any suggestions back to the Committee for its determination and/or ratification.

The Working Groups should take meeting notes of their discussions (rather than formal minutes) which can be the basis of a report to the Advisory Committee.

4.11 ABSENCE FROM COMMITTEE MEETINGS

All Advisory Committee members are required to advise the Chair when they are unable to attend Committee meetings. The absence of Committee members from the meeting is to be recorded in the minutes. A member (other than the Mayor) ceases to be a member of a Committee if the member:

- Has been absent from three consecutive meetings of the Committee without having given reasons acceptable to the Committee for the member's absences, or
- Has been absent from at least half of the meetings of the Committee held during the immediately preceding year without having given to the Committee acceptable reasons for the member's absences.

4.12 RECORDING OF COMMITTEE MEETINGS PROHIBITED WITHOUT PERMISSION

A person may use a recording device to record the proceedings of a meeting of a Committee only with the authority of the Committee.

A person may be expelled from a Committee meeting for using or having used a device to record the meeting in contravention of this clause.

5. MEETING PROCEDURES FOR COMMITTEES OF COUNCIL

Committees of Council comprise only of Councillors and staff (other than the Audit, Risk & Improvement Committee). These meetings will follow similar meeting procedures as Advisory Committees. These Committees are focused on internal matters.

The Audit, Risk & Improvement Committee currently comprises of independent community members as well as Councillors. There are separate guidelines for the establishment and conduct of this Committee.

6. MEETING PROCEDURES FOR FOCUS GROUPS

Focus Groups provide a forum for issues around a Council facility (e.g. Murrumbateman Recreation Grounds) or subject (e.g. Public Art).

Membership of Focus Groups for facilities will be the existing or prospective user groups.

Community membership of a Focus Group on a subject will be recruited similar to the process of recruiting members for Advisory Committees.

Focus Groups are not decision making forums.

Terms of Reference for Focus Groups are included in **Attachment B**.

Meeting notes of proceedings at a Focus Group meeting will be taken rather than formal minutes.

7. MEETING PROCEDURES FOR PROJECT WORKING PARTIES/STEERING COMMITTEES

Project Working Parties/Steering Committees will be established for key Council projects.

These will operate only for the duration of the project.

The Working Party or Steering Committee will provide guidance on the project, at key milestones, in accordance with the project brief to staff and/or contractors.

Community membership of a Project Working Parties/Steering Committees will be recruited similar to the process of recruiting members for Advisory Committees.

Terms of Reference for Project Working Parties/Steering Committees are included in **Attachment B**.

Meeting notes of proceedings at a Project Working Parties/Steering Committees meeting will be taken rather than formal minutes.

8. MISCELLANEOUS ISSUES

8.1 INSURANCE ISSUES

8.1.1 Public Liability

The Committee members are covered by the public liability policy of Council. This insurance does not preclude the Committee from due diligence and all Council policies must be adhered to.

8.1.2 Personal Accident

Committee members are covered by Council's personal accident policy when injured whilst undertaking actions authorised by Council relating to their role in the Committee.

8.1.3 Motor Vehicle

In the event that a Committee member utilises a Council vehicle, the motor vehicle policy of Council will provide cover.

8.2 LEGAL ISSUES

Committees do not have delegated decision making powers other than procedural matters for the Committee (e.g. adoption of minutes).

The Committee will make recommendations to Council in accordance with their terms of reference and it is up to Council to determine whether or not to accept the recommendations of the Committee.

Committees sometimes believe they are responsible in their own right and that their actions are independent of Council. This is not correct. Council has resolved to constitute the Advisory Committee and Council can dissolve the Committee at any time, if deemed necessary.

8.3 CONFLICT OF INTEREST

All Committee members are required to declare conflict of interests, including pecuniary interests, wherever applicable and then manage that conflict accordingly.

A conflict of interest exists where a reasonable and informed person could perceive that you could be influenced by a private interest when carrying out a public duty. Advisory Committee members must avoid, or appropriately manage, any conflict of interest. The onus is on the Committee member taking the most appropriate action to identify and manage the conflict of interest to ensure proper probity and good governance.

There are two types of interests – pecuniary and non-pecuniary.

Pecuniary interest may be defined as an interest that a Committee member has in a matter, as a member, or employee, of a company or other body, because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person, or another person with whom the person is associated. Such other persons may include the spouse or de-facto partner or relative of the Committee member.

The proper procedure to be followed for the disclosure of pecuniary interests is for the Committee member to disclose to the meeting any agenda item(s) that the member has a pecuniary interest in as well as the nature of the interest. The Committee member must leave the meeting before discussion, debate and voting on that matter. The Chairperson must ensure that the minutes of the Committee meeting will record the disclosure of the interest and how it was managed.

Non-pecuniary interests are private or personal interests that do not amount to a pecuniary interest. These commonly arise from family, personal relationships, involvement in sporting, social or other cultural groups and associations. Non-pecuniary interests are managed according to their significance. The interest is classified as either significant or non-significant and there are different options to manage each category.

The proper procedure to be followed for the disclosure of non-pecuniary interests is for the Committee members to disclose to the meeting any agenda item(s) that a member has an interest in as well as the nature of that interest.

In the event of a pecuniary interest or significant, non-pecuniary interest, Councillors must leave the meeting before discussion, debate and voting on the matter. In the event of a non-significant, non-pecuniary interest the Councillors must provide an explanation of why the conflict of interest does not prevent them leaving the meeting or participating in the discussion.

For non-Councillor members of the Advisory Committee separate arrangements will apply. These members are often recruited because of their interests and expertise in the terms of reference. This is likely to lead to a potential or actual conflict of interest.

However, as the Committees are advisory only and not making decisions on behalf of Council, members may participate in the discussion and decision making despite the conflict. In considering any recommendations from an Advisory Committee, Council will take into account the nature of the conflicts declared.

The Chairperson must ensure that the minutes of the Committee meeting record the disclosure of all interests and how these were managed.

Advisory Committee members should familiarise themselves with the Office of Local Government's publication *Your obligations as a Council Committee member*, Council's adopted *Code of Conduct* and *Code of Meeting Practice* for further information relating to the proper identification, disclosure and subsequent management of conflicts of interest.

8.4 INDUCTION

All representatives will be required to participate in an induction process within 12 months of appointment to the Committee. The Chairperson of the Committee will coordinate with the Chief Executive Officer in relation to the induction process.

Attachment 1 – Council's Committees

Committees have been grouped into the following categories i.e.

- Committees of Council
 - Internally focused
- Advisory Committees
 - Provide advice to Council
 - Undertake projects as directed by Council or as endorsed by Council
 - Have an external focus
- Focus Groups
 - Forums (generally annually) to provide feedback to Council and staff on priorities within their terms of reference
- Project Working Parties/Steering Committees
 - Established to oversee a Council project
 - Operates only for the duration of the project
 - Provides guidance to the project at key milestones in accordance with the project brief to staff and/or consultants
- External Committees
 - External to Council
 - Establish under separate legislation or guidelines
 - Council are invited to provide a representative(s)

A list of the current Committees under these categories are provided in the following table:

Committees of Council	Committees	External Committees
<ul style="list-style-type: none"> • Chief Executive Officer Performance Review Committee • Audit, Risk & Improvement Committee 	<p>Advisory Committees</p> <ul style="list-style-type: none"> • Economic Development Advisory Committee • Sustainability Advisory Committee • Aboriginal Consultative Committee • Yass Soldiers Memorial Hall Advisory Committee • Youth Council • Community Enhancement Funds Advisory Committees <ul style="list-style-type: none"> – Coppabella Wind Farm – Rye Park Wind Farm – Bango Wind Farm – Springdale Solar Farm • Murrumbateman Playground Project Committee <p>Focus Groups</p> <ul style="list-style-type: none"> • Public Arts Focus Group • Murrumbateman Recreation Grounds Focus Group • Sports Council <p>Project Working Parties / Steering Committees</p> <ul style="list-style-type: none"> • Open Space Strategy Project Committee • Yass Main Street Project Committee <p><i>Note: other committees will be formed as required</i></p>	<ul style="list-style-type: none"> • Canberra Region Joint Organisation • Joint Regional Planning Panel • Local Emergency Management Committee • Local Rescue Committee • Regional Emergency Management Committee • Local Traffic Committee • Ginninderry Conservation Trust • ACT & Region Catchment Management Coordination Group • Southern Tablelands Regional Arts • South East Australia Transport Strategy • South East Weight of Loads Group • South West Regional Waste Management Group • Community Consultative Committees <ul style="list-style-type: none"> – Coppabella Wind Farm – Rye Park Wind Farm – Bango Wind Farm

These guidelines only relate to Council Advisory Committees, Focus Groups and Project Working Parties/Steering Committees.

Committees of Council will continue to operate in accordance with the *Model Code of Meeting Practice*. Terms of reference for these Committees are included in these guidelines for convenience.

External Committees have their own procedures set by the organisation responsible for their operation and any applicable legislation.

Attachment 2 – Terms of Reference

Committee of Council

Chief Executive Officer's Performance Review Committee

1	Name of Committee	Chief Executive Officer's Performance Review Committee
2	Terms of Reference	<ul style="list-style-type: none"> Review Chief Executive Officer's performance Recommend outcomes in relation to Performance Agreement and prepare minutes for Council records
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i> Standard Employment Contract for Chief Executive Officers Annual Performance Agreement
4	Maximum number for make-up of Committee members	All Councillors
5	Council employees	Chief Executive Officer
6	Area assigned to Committee and/or map	Yass Valley
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	Nil
8	Minimum number of meetings per annum	1

Committee of Council
Audit, Risk & Improvement Committee

1	Name of Committee	Audit, Risk & Improvement Committee
2	Terms of Reference	<ul style="list-style-type: none"> To provide independent assurance and assistance to Council on risk management, the control framework, legislative compliance, internal audit and external accountability responsibilities
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i>
4	Maximum number for make-up of Committee members	<ul style="list-style-type: none"> 3 Independent Members Mayor 1 Councillor
5	Council employees	<ul style="list-style-type: none"> Chief Executive Officer Executive Management Team Manager Risk, Audit & Improvement
6	Area assigned to Committee and/or map	Yass Valley
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	Nil
8	Minimum number of meetings per annum	1

Note: In July 2021 Council agreed to participate in an independent ARIC and internal audit function established by the Canberra Region Joint Organisation (CRJO) to provide a services to member Councils noting the need:

- To mitigate key risks including by ensuring that any shared service arrangement does not result in degradation of Internal Audit Services to Council
- For a risk based internal audit plan to be maintained for Yass Valley Council
- All agreed governance and service arrangements are contractually enforceable

The current ARIC will continue to operate as a Committee of Council until such time as the CRJO service has been established.

Advisory Committee

Economic Development Advisory Committee

1	Name of Committee	Economic Development Committee
2	Terms of Reference	<ul style="list-style-type: none"> To provide advice and support to Council on long term sustainable economic growth within the context of generating, attracting and maintaining business activity and/or employment in Yass Valley Provide advice on economic development strategy Provide advice on tourism strategy Provide a forum to engage with the local business community Support, attract and grow local businesses Projects to be determined by the Committee To make recommendations consistent with the Community Strategic Plan in relation to economic development and tourism Advise on future development of mainstreet incorporating the heritage aspects
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i>
4	Maximum number for make-up of Committee members	<ul style="list-style-type: none"> 2 Councillors Up to 6 community members who have qualifications or experience in the key issues to be considered by the Committee 1 representative each from: <ul style="list-style-type: none"> Regional Development Australia Southern Inland (RDASI) Yass Valley Business Chamber Destination Southern NSW
5	Council employees	Director Corporate & Community Manager Tourism & Business Liaison
6	Area assigned to Committee and/or map	Yass Valley
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	Nil
8	Minimum number of meetings per annum	4

Advisory Committee
Sustainability Advisory Committee

1	Name of Committee	Sustainability Advisory Committee
2	Terms of Reference	<ul style="list-style-type: none"> To embed financial, environmental, social and cultural sustainability into Council's operations through the continuous review of policies, projects and services offered by Council To take advice from all sectors of the community, and to research and propose new and innovative ways of bringing sustainability into all of Council's policies and operations To make recommendations to Council on best-practice sustainability, consistent with the Community Strategic Plan
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i>
4	Maximum number for make-up of Committee members	<ul style="list-style-type: none"> 2 Councillors No fewer than 7 and up to 10 community members who have qualifications or experience in the key issues to be considered by the Committee
5	Council employees	Appropriate staff members as relevant dependant on the issues to be discussed
6	Area assigned to Committee and/or map	Yass Valley
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	Nil
8	Minimum number of meetings per annum	4 (more frequently if required during the policy review period)

Advisory Committee

Youth Council

1	Name of Committee	Youth Council
2	Terms of Reference	<ul style="list-style-type: none"> To provide a forum for Council to consult with and receive advice from representative youth in Yass Valley
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i>
4	Maximum number for make-up of Committee members	1 Councillor Up to 12 youth representatives
5	Council employees	Director Corporate & Community
6	Area assigned to Committee and/or map	Yass Valley
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	Quorum - 5 youth and one Councillor In the event of a casual vacancy the number necessary for a quorum be based on a simple majority of the remaining numbers (22 Nov 2017 Min 331)
8	Minimum number of meetings per annum	4

Advisory Committee

Aboriginal Consultative Committee

1	Name of Committee	Aboriginal Consultative Committee
2	Terms of Reference	<ul style="list-style-type: none"> To provide a forum for support, communication and understanding between the Aboriginal community and Council To consider and make recommendations to Council on Aboriginal issues
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i>
4	Maximum number for make-up of Committee members	<ul style="list-style-type: none"> 2 Councillors Up to 8 Aboriginal residents of Yass Valley
5	Council employees	Director Planning & Environment
6	Area assigned to Committee and/or map	Yass Valley
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	Nil
8	Minimum number of meetings per annum	4

Advisory Committee

Yass Soldiers Memorial Hall Advisory Committee

1	Name of Committee	Yass Soldiers Memorial Hall Advisory Committee
2	Terms of Reference	<ul style="list-style-type: none"> To recommend priorities for maintenance and capital improvements of Yass Soldiers Memorial Hall
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i>
4	Maximum number for make-up of Committee members	2 Councillor 1 Returned Soldiers League – Yass Sub Branch representative Representatives of user groups and prospective users
5	Council employees	Director Infrastructure & Assets Manager Facilities & Waste Assets
6	Area assigned to Committee and/or map	Yass Valley
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	Nil
8	Minimum number of meetings per annum	4

Advisory Committee

Coppabella Wind Farm Community Enhancement Fund Advisory Committee

1	Name of Committee	Coppabella Wind Farm Advisory Committee
2	Terms of Reference	<ul style="list-style-type: none"> To determine the form in which applications for funding for Local Projects from the Community Enhancement Fund are to be made To recommend to the Council which applications for funding for Local Projects should be funded from the Community Enhancement Fund
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i> Coppabella Wind Farm Voluntary Planning Agreement
4	Maximum number for make-up of Committee members	<ul style="list-style-type: none"> Mayor or Councillor Delegate Chief Executive Officer or delegate of the Council Up to 2 community representatives with demonstrated skills and experience relating to the terms of reference who do not own any of the Coppabella Land or receive any payment from the operator A representative appointed by the Company
5	Council employees	Director Planning & Environment
6	Area assigned to Committee and/or map	Yass Valley
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	As per Voluntary Planning Agreement
8	Minimum number of meetings per annum	4

Note: Committee only becomes operational following commencement of wind farm operations

Advisory Committee

Rye Park Wind Farm Community Enhancement Fund Advisory Committee

1	Name of Committee	Rye Park Wind Farm Advisory Committee
2	Terms of Reference	<ul style="list-style-type: none"> To determine the form in which applications for funding for Local Projects from the Community Enhancement Fund are to be made To recommend to the Council which applications for funding for Local Projects should be funded from the Community Enhancement Fund
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i> Rye Park Wind Farm Voluntary Planning Agreement
4	Maximum number for make-up of Committee members	<ul style="list-style-type: none"> Mayor or Councillor Delegate Chief Executive Officer or delegate of the Council Up to 2 community representatives with demonstrated skills and experience relating to the terms of reference who do not own any of the Rye Park Land or receive any payment from the operator A representative appointed by the Company
5	Council employees	Director Planning & Environment
6	Area assigned to Committee and/or map	Yass Valley
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	As per Voluntary Planning Agreement
8	Minimum number of meetings per annum	4

Note: Committee only becomes operational following commencement of wind farm operations

Advisory Committee

Bango Wind Farm Community Enhancement Fund Advisory Committee

1	Name of Committee	Bango Wind Farm Advisory Committee
2	Terms of Reference	<ul style="list-style-type: none"> To determine the form in which applications for funding for Local Projects from the Community Enhancement Fund are to be made To recommend to the Council which applications for funding for Local Projects should be funded from the Community Enhancement Fund
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i> Bango Wind Farm Voluntary Planning Agreement
4	Maximum number for make-up of Committee members	<ul style="list-style-type: none"> Mayor or Councillor Delegate Chief Executive Officer or delegate of the Council Up to 2 community representatives with demonstrated skills and experience relating to the terms of reference who do not own any of the Bango Land or receive any payment from the operator A representative appointed by the Company
5	Council employees	Director Planning & Environment
6	Area assigned to Committee and/or map	Yass Valley
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	As per Voluntary Planning Agreement
8	Minimum number of meetings per annum	4

Note: Committee only becomes operational following commencement of wind farm operations

Advisory Committee

Springdale Solar Farm Community Enhancement Fund Advisory Committee

1	Name of Committee	Springdale Solar Farm Advisory Committee
2	Terms of Reference	<ul style="list-style-type: none"> To determine the form in which applications for funding for Local Projects from the Community Enhancement Fund are to be made To recommend to the Council which applications for funding for Local Projects should be funded from the Community Enhancement Fund
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i> Springdale Solar Farm Voluntary Planning Agreement
4	Maximum number for make-up of Committee members	<ul style="list-style-type: none"> Mayor or Councillor Delegate Chief Executive Officer or delegate of the Council Up to 2 community representatives with demonstrated skills and experience relating to the terms of reference who do not own any of the Springdale Land or receive any payment from the operator A representative appointed by the Company
5	Council employees	Director Planning & Environment
6	Area assigned to Committee and/or map	Yass Valley
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	As per Voluntary Planning Agreement
8	Minimum number of meetings per annum	4

Note: Committee only becomes operational following commencement of solar farm operations

Advisory Committee

Murrumbateman Playground Project Committee

1	Name of Committee	Murrumbateman Playground Project Committee
2	Terms of Reference	<ul style="list-style-type: none"> To provide advice to Council on the location and development of the Murrumbateman Category 1 Playground from establishment phase until completion of a concept design. To assist in drafting recommendations and actions for the implementation of the project. To act as champions for the project within the broader community.
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i> <i>Crown Land Management Act 2016</i> NSW Everyone Can Play Guidelines Yass Valley Local Environmental Plan 2013 Draft Yass Valley Open Space Strategy Yass Valley Park and Playground Strategy 2017
4	Maximum number for make-up of Committee members	<ul style="list-style-type: none"> 3 x Councillors 3 x community members, to be comprised of: <ul style="list-style-type: none"> Youth representative (Murrumbateman resident between ages of 15-24 years) Murrumbateman Progress Association representative Murrumbateman community member
5	Council employees	<ul style="list-style-type: none"> Director Infrastructure & Assets Director Planning & Environment Manager Strategic Planning Manager Recreational Assets
6	Area assigned to Committee and/or map	Murrumbateman
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	N/A
8	Minimum number of meetings per annum	As required

Focus Group

Public Art Focus Group

1	Name of Committee	Public Art Focus Group
2	Terms of Reference	<ul style="list-style-type: none"> To apply the selection and evaluation process outlined in the <i>Public Art Policy</i> and make recommendations to Council regarding Public Art projects Assess and advise on Public Art proposals and commissions in accordance with the <i>Public Art Policy</i> Advise on decommissioning and relocation of Public Art works
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i>
4	Maximum number for make-up of Committee members	<ul style="list-style-type: none"> 2 Councillors Southern Tablelands Arts representative At least 3 arts/community representatives Representative of the local Aboriginal Community Other members may be co-opted to assist with assessment of proposals relating to particular communities, particular art forms or with technical issues
5	Council employees	Chief Executive Officer
6	Area assigned to Committee and/or map	Yass Valley
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	Nil
8	Minimum number of meetings per annum	As required

Focus Group

Murrumbateman Recreation Grounds Focus Group

1	Name of Committee	Murrumbateman Recreation Grounds Focus Group
2	Terms of Reference	<ul style="list-style-type: none"> To identify maintenance priorities and standards To identify priorities for new or upgraded facilities
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i> <i>Crown Lands Management Act 2016</i> <i>Murrumbateman Recreation Grounds Strategic Plan</i>
4	Maximum number for make-up of Committee members	2 Councillors All user groups and prospective user groups
5	Council employees	Director Infrastructure & Assets Manager Recreational Assets
6	Area assigned to Committee and/or map	Murrumbateman Recreation Grounds
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	Nil
8	Minimum number of meetings per annum	1

Focus Group

Sports Council

1	Name of Committee	Sports Council
2	Terms of Reference	<ul style="list-style-type: none"> To recommend priorities for maintenance and capital improvements and to advise on use of sporting facilities Provide endorsement of Department of Sport & Recreation Grant applications from the local area
3	Policies and legislation the Committee is required to comply with	<ul style="list-style-type: none"> <i>Local Government Act 1993</i>
4	Maximum number for make-up of Committee members	1 Councillor Representatives of local sporting bodies
5	Council employees	Director Infrastructure & Assets Manager Recreational Assets
6	Area assigned to Committee and/or map	Yass Valley
7	Additional clauses or amendments to <i>Guidelines for Advisory Committees and Committees of Council</i>	Nil
8	Minimum number of meetings per annum	2

Project Working Parties / Steering Committees

Yass Valley Open Space Project Committee

1	Name of Committee	Yass Valley Open Space Project Committee
2	Terms of Reference	<ul style="list-style-type: none"> To provide input and advice to Council and staff on the development of the Yass Valley Open Space Strategy To assist in determining recommendations and projects for the implementation of the strategy To act as champions of the project within the broader community
3	Policies and legislation the committee is required to comply with in addition to those set out in clause 5.3 of the standard constitution	<ul style="list-style-type: none"> <i>Local Government Act 1993</i> <i>Crown Land Management Act 2016</i> NSW Everyone Can Play Guidelines Yass Valley Local Environmental Plan 2013 Yass Valley Flood Risk Management Studies & Plans
4	Maximum number and make-up of Committee members	<p>2 Councillors</p> <p>Up to 10 community members, to be comprised of:</p> <ul style="list-style-type: none"> Sports Council/committee Representative Yass Area Network of Landcare Representative Youth Representative (Yass Valley Resident between ages of 15-24) Murrumbateman Progress Association Representative Wee Jasper Community Association Representative Sutton & District Community Association Representative Gundaroo Community Association Representative Binalong Progress Association Representative Bowling Community Association Representative Bookham Community Representative
5	Council employees	<ul style="list-style-type: none"> Director Infrastructure & Assets Director Planning & Environment Manager Strategic Planning
6	Area assigned to committee and/or map	Yass Valley LGA (excluding Parkwood- Ginninderry Development)
7	Additional clauses or amendments to Standard Constitution or Schedule. To be listed in full – body of constitution not to be altered	N/A
8	Minimum number of meetings per annum	Minimum 2 meetings (meeting to review Draft Strategy, and meeting to review submissions and draft prior to reporting to Council). Any other meetings as required during life of project.

Project Working Parties / Steering Committees

Yass Main Street Project Committee

1	Name of Committee	Yass Mains Street Project Committee
2	Terms of Reference	<ul style="list-style-type: none"> To provide input and advice to Council and staff on the development of the Yass main street masterplan To assist in determining recommendations and projects for the implementation of the masterplan To act as champions of the project within the broader community
3	Policies and legislation the committee is required to comply with in addition to those set out in clause 5.3 of the standard constitution	<ul style="list-style-type: none"> <i>Local Government Act 1993</i> <i>Roads Act 1993</i> AS 1428 Australian Standard – Design for Access and Mobility Yass Valley Local Environmental Plan 2013 Yass Flood Risk Management Study & Plan 2021
4	Maximum number and make-up of Committee members	<ul style="list-style-type: none"> 2 Councillors 2 members, to be comprised of: <ul style="list-style-type: none"> Yass Valley Business Chamber Representative Yass and District Historical Society Representative Up to 5 community members, to be comprised of: <ul style="list-style-type: none"> 1 Yass Valley resident who has a lived experience with a physical disability and who can provide advice on access issues 2 small business owners who have operated in Yass for at least 5 years 2 residents who have lived in Yass Valley for at least 5 years <p>Nominations for the Community Member positions must state how they would fulfil the terms of reference.</p>
5	Council employees	<ul style="list-style-type: none"> Director Infrastructure & Assets Director Planning & Environment Manager Strategic Planning
6	Area assigned to committee and/or map	Yass Main street area as defined within project brief
7	Additional clauses or amendments to Standard Constitution or Schedule. To be listed in full – body of constitution not to be altered	N/A
8	Minimum number of meetings per annum	<p>Minimum 3 meetings (preliminary consultation meeting, meeting to review Draft Masterplan, and meeting to review submissions.</p> <p>Any other meetings as required during life of project.</p>



<Name> Advisory Committee

<Day> <Date>
<Time>pm
<Venue>
<Address>

Zoom Meeting ID: <Number>
Password: <Number>

Terms of Reference:

- <Insert>
- <Insert>

Members:

Cr <Name>, Chair

Cr <Name>

<Name> <Organisation>

<Name> <Community Representative>

<NAME> ADVISORY COMMITTEE

NOTICE OF MEETING

A meeting of the <Name> Advisory Committee will be held in <Venue>, <Address>, Yass, on <Day>
<Date>, commencing at <Time>**pm**

AGENDA

Page No.

Acknowledgement of Country

1. Apologies	
2. Declaration of Conflict of Interest	
3. Confirmation of Minutes	
Minutes of <Name> Advirory Committee held on <Date>	
4. Presentation	
5. Reports	
5.1 Action List Update	3
5.2 Working Party Reports	4
5.3 <Report Name>	5
5.4 <Report Name>	6
6. Next Meeting	

Close of Meeting Time

Councillor <Name>

CHAIR

<Name> Advisory Committee <Date>

5.1 ACTION LIST UPDATE

SUMMARY

To provide the Committee with an update on the operational activities undertaken by staff.

RECOMMENDATION

That the Action List Update Report be noted

FINANCIAL IMPLICATIONS

Operational activities are included within the <Name> budget.

POLICY & LEGISLATION

Nil.

REPORT

1. Background:

<Insert>.

2. <Insert>:

2.1 <Heading>

<Insert>

2.2 <Heading>

<Insert>

3. Projects 2021/22:

3.1 <Project>

<Insert>

3.1 <Project>

<Insert>

ATTACHMENTS: Nil

<Name> Advisory Committee <Date>

5.2 WORKING GROUP UPDATE REPORTS

SUMMARY

To provide the Committee with an update on working being undertaken by Working Groups.

RECOMMENDATION

That the Working Group Update Reports be noted

FINANCIAL IMPLICATIONS

Operational activities are included within the <Name> budget.

POLICY & LEGISLATION

Nil.

REPORT

1. <Name> Working Group

<Insert>

2. <Name> Working Group

<Insert>

ATTACHMENTS: Nil

<Name> Advisory Committee <Date>

5.3 <REPORT>

SUMMARY

To present a report on <insert>.

RECOMMENDATION

That <insert>

FINANCIAL IMPLICATIONS

<Insert>

POLICY & LEGISLATION

- <Insert>

REPORT

<Insert>

ATTACHMENTS: Nil

<Name> Advisory Committee <Date>

5.4 <REPORT>

SUMMARY

To present a report on <insert>.

RECOMMENDATION

That <insert>

FINANCIAL IMPLICATIONS

<Insert>

POLICY & LEGISLATION

- <Insert>

REPORT

<Insert>



Minutes of the <Name> Advisory Committee

<Day> <Date>

<Time>pm

<Venue>

<Address>, Yass

Terms of Reference:

- <Insert>
- <Insert>

Members:

Cr <Name>, Chair

Cr <Name>

<Name> <Organisation>

<Name> <Community Representative>

Minutes of the <Name> Advisory Committee held on <Date>

Table of Contents

1. Apologies..... 2

2. Declaration of Conflict of Interest..... 2

3. Confirmation of Minutes..... 2

4. Presentation..... 2

5. Reports..... 2

5.1 Action List Update..... 2

5.2 Working Group Update Reports 3

5.3 <Title> 3

6. Next Meeting 3

Minutes of the <Name> Advisory Committee held on <Date>

Present

Cr <Name> (Chair), <Member Name>, <Member Name>, <Member Name>, <Member Name>.

Also Present

<Name> and <Name>

Absent

<Member Name>

1. Apologies

Apologies were received from <Member Name> and <Member Name>.

2. Declaration of Conflict of Interest

<Name> declared a pecuniary interest/non-pecuniary, non-significant/non-pecuniary, significant interest as <Reason>.

3. Confirmation of Minutes

COMMITTEE DECISION

That the minutes of the <Name> Advisory Committee held on <Date> be confirmed

(Mover/Seconder)

4. Presentation

4.1 <Subject>

<Insert presentation>

4.2 <Subject>

<Insert presentation>

5. Reports

5.1 ACTION LIST UPDATE

SUMMARY

To provide the Committee with an update on the operational activities undertaken by staff

COMMITTEE DECISION

That the Action List Update Report be noted

(Mover/Seconder)

ACTION:

<Insert>

Minutes of the <Name> Advisory Committee held on <Date>

5.2 WORKING GROUP UPDATE REPORTS

SUMMARY

To provide the Committee with an update on working being undertaken by Working Groups.

COMMITTEE DECISION

That the Working Group Update Reports be noted

(Mover/Seconder)

ACTION:

<Insert>

5.3 <TITLE>

SUMMARY

<Insert>

COMMITTEE DECISION / RECOMMENDATION

That:

- <Insert>
- <Insert>

(Mover/Seconder)

ACTION:

<Insert>

6. Next Meeting

Next meeting will be held on <Date>.

The meeting closed at <Time>pm

Attachment 5 – Annual Report Template



<NAME> Advisory Committee

Annual Report <Year>

Terms of Reference

1. <INSERT from Committee Guidelines>
2. <INSERT from Committee Guidelines>
3. <INSERT from Committee Guidelines>

Members

Member	Appointed	Resigned
<Name>	<Date>	<Date>

Meetings Attended

Member	<Date>	<Date>	<Date>	<Date>	<Date>
	✓	X	X	✓	X
	✓	✓	✓	✓	X
	✓	✓	✓	✓	✓
	✓	✓	X	✓	✓
	✓	✓	✓	✓	✓
	✓ **	✓ **	✓	✓	✓

* Extraordinary meeting

** Not a member

Committee Project Status

Project/Project Officer	Key Stages	Due Date	Status
	•	•	•
	•	•	•
	•	•	•
	•	•	•
	•	•	•

Model Code of Conduct

for Local Councils
in NSW

2020



Adopted Yass Valley Council 26 August 2020
Resolution 132/2020

MODEL CODE OF CONDUCT FOR LOCAL COUNCILS IN NSW

2020

ACCESS TO SERVICES

The Office of Local Government is located at:

Street Address: Levels 1 & 2, 5 O'Keefe Avenue, NOWRA NSW 2541

Postal Address: Locked Bag 3015, Nowra, NSW 2541

Phone: 02 4428 4100

Fax: 02 4428 4199

TTY: 02 4428 4209

Email: olg@olg.nsw.gov.au

Website: www.olg.nsw.gov.au

OFFICE HOURS

Monday to Friday

9.00am to 5.00pm

(Special arrangements may be made if these hours are unsuitable)

All offices are wheelchair accessible.

ALTERNATIVE MEDIA PUBLICATIONS

Special arrangements can be made for our publications to be provided in large print or an alternative media format. If you need this service, please contact us on 02 4428 4100.

DISCLAIMER

While every effort has been made to ensure the accuracy of the information in this publication, the Office of Local Government expressly disclaims any liability to any person in respect of anything done or not done as a result of the contents of the publication or the data provided.

© Department of Planning, Industry and Environment 2020

Produced by the Department of Planning, Industry and Environment

Contents

Part 1:	Introduction	4
Part 2:	Definitions	6
Part 3:	General Conduct Obligations	10
Part 4:	Pecuniary Interests	14
Part 5:	Non-Pecuniary Conflicts of Interest	22
Part 6:	Personal Benefit	28
Part 7:	Relationships Between Council Officials	32
Part 8:	Access to Information and Council Resources	36
Part 9:	Maintaining the Integrity of this Code	42
Schedule 1:	Disclosures of Interest and Other Matters in Written Returns Submitted Under Clause 4.21	46
Schedule 2:	Form of Written Return of Interests Submitted Under Clause 4.21	54
Schedule 3:	Form of Special Disclosure of Pecuniary Interest Submitted Under Clause 4.37	58

Part 1:

Introduction

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

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

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

Failure by a councillor to comply with the standards of conduct prescribed under this code constitutes misconduct for the purposes of the 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.

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

Note: In adopting the Model Code of Conduct, joint organisations should adapt it to substitute the terms "board" for "council", "chairperson" for "mayor", "voting representative" for "councillor" and "executive officer" for "general manager".

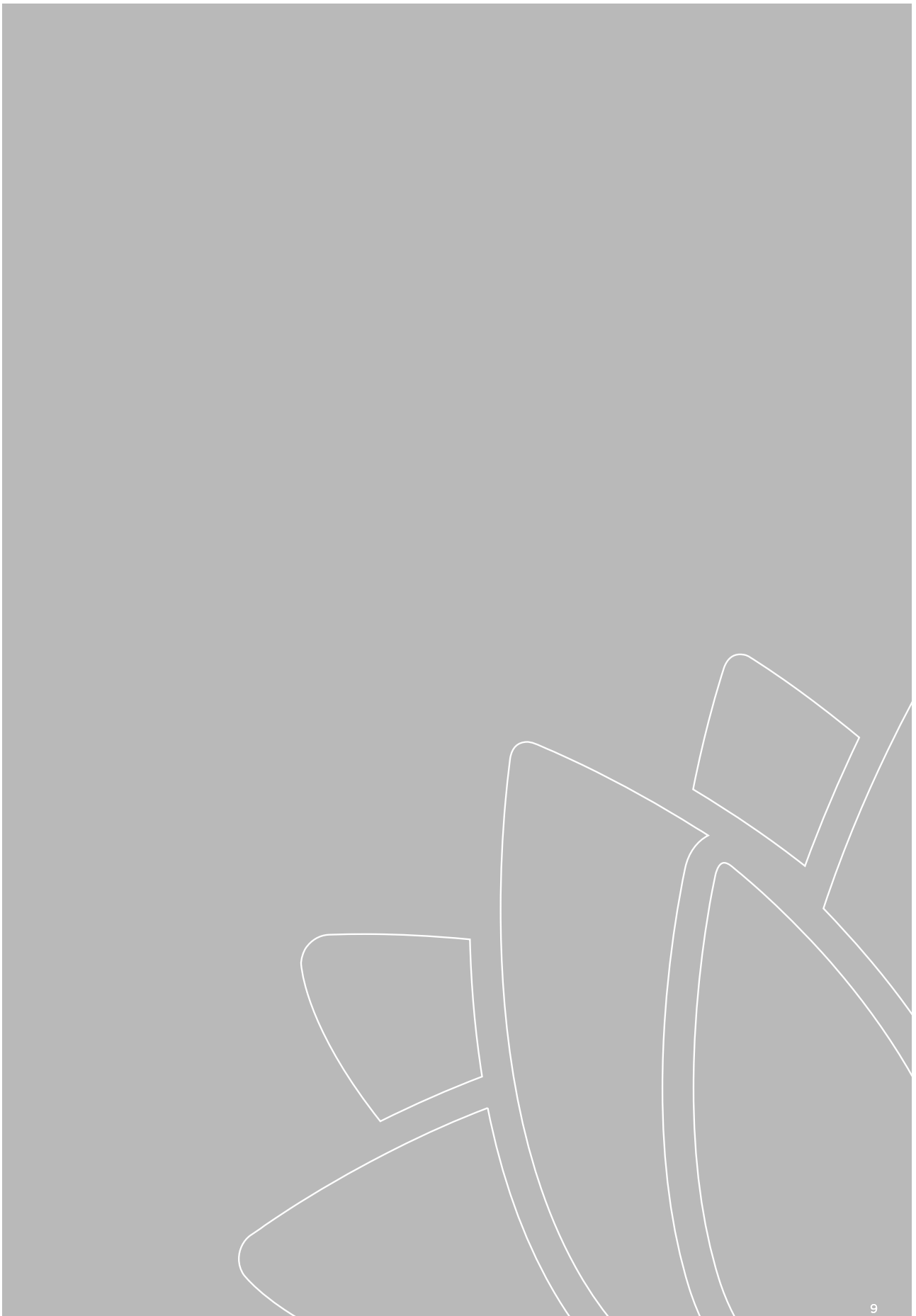
Note: In adopting the Model Code of Conduct, county councils should adapt it to substitute the term "chairperson" for "mayor" and "member" for "councillor".

Part 2: Definitions

In this code 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
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.
conduct	includes acts and omissions
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
council official	includes councillors, members of staff of a council, administrators, council committee members, delegates of council and, for the purposes of clause 4.16, council advisers
councillor	any person elected or appointed to civic office, including the mayor and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns
environmental planning instrument	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 4000 of the LGA
LGA	<i>Local Government Act 1993</i>
local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
mayor	includes the chairperson of a county council or a joint organisation

members of staff of a council	includes members of staff of county councils and joint organisations
the Office	Office of Local Government
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the <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 2005</i>
voting representative	a voting representative of the board of a joint organisation
wholly advisory committee	a council committee that the council has not delegated any functions to



Part 3:

General Conduct Obligations

General conduct

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

Binding caucus votes

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

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 general manager
- (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 general manager (or if the person is the general manager, to the council) the nature of any pecuniary interest the person has in any council matter with which the person is dealing as soon as practicable after becoming aware of the interest.

4.11 Clause 4.10 does not require a designated person who is a member of staff of the council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.

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

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

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

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

4.15 The staff member's manager or the general manager must, on receiving a disclosure under 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 general manager a return in the form set out in schedule 2 to this code, disclosing the councillor's or designated person's interests as specified in schedule 1 to this code within 3 months after:
- (a) becoming a councillor or designated person, 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 general manager must keep a register of returns required to be made and lodged with the general manager.
- 4.25 Returns required to be lodged with the general manager under clause 4.21(a) and (b) must be tabled at the first meeting of the council after the last day the return is required to be lodged.
- 4.26 Returns required to be lodged with the general manager under clause 4.21(c) must be tabled at the next council meeting after the return is lodged.
- 4.27 Information contained in returns made and lodged under clause 4.21 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.
- (b) at any time during which the council or committee is voting on any question in relation to the matter.
- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council committee member, or the councillor's or council committee member's spouse, de facto partner or relative, is:
- (a) a member of, or in the employment of, a specified company or other body, or
- (b) a partner of, or in the employment of, a specified person.

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
- Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the councillor's or council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.
- 4.33 A councillor or a council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or council committee member has an interest in the matter of a kind referred to in clause 4.6.

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



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 general manager, such a disclosure is to be made to the staff member's manager. In the case of the general manager, such a disclosure is to be made to the mayor.
- 5.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
 - a) a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household

- b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
 - c) an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
 - d) membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
 - e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not 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 general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the mayor.
- 5.13 Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.

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

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 general manager must not engage, for remuneration, in private employment, contract work or other business outside the service of the council without the approval of the council.

5.24 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 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.

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

5.26 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) 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 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
 - d) a benefit or facility provided by the council to an employee or councillor
 - e) attendance by a council official at a work-related event or function for the purposes of performing their official duties, 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
 - 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 eligibility is based on the council being in or entering into a customer-supplier relationship with the competition organiser
 - g) personally benefit from reward points programs when purchasing on behalf of the council.

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

- a) the nature of the gift or benefit
- b) the estimated monetary value of the gift or benefit
- c) the name of the person who provided the gift or benefit, 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 the council, unless the nature of the gift or benefit makes this impractical.

Gifts and benefits of token value

6.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period 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
- 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 6.5(d) and, subject to clause 6.7, must not be accepted.

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

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

Improper and undue influence

- 6.14 You must not use your position to influence other council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the proper exercise of their role as prescribed under the LGA.
- 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 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.
- 7.2 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 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 general manager
 - d) contact or issue instructions to any of the council's contractors, including the council's legal advisers, unless by the mayor or administrator exercising their functions under section 226 of the LGA.

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

Obligations of staff

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

Inappropriate interactions

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

- a) councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- b) council staff approaching councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- c) subject to clause 8.6, council staff refusing to give information that is available to other councillors to a particular councillor
- 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 and administrators making personal attacks on council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media
- i) councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
- j) council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- k) council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
- l) councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's general manager or, in the case of the mayor or administrator, unless they are exercising their functions under section 226 of the LGA.



Part 8:

Access to Information and Council Resources

Councillor and administrator access to information

- 8.1 The general manager is responsible for ensuring that councillors and administrators can access information necessary for the performance of their official functions. The general manager and public officer are also responsible for ensuring that members of the public can access publicly available council information under the *Government Information (Public Access) Act 2009* (the GIPA Act).
- 8.2 The general manager must provide councillors and administrators with the information necessary to effectively discharge their official functions.
- 8.3 Members of staff of council must provide full and timely information to councillors and administrators sufficient to enable them to exercise their official functions and in accordance with council procedures.
- 8.4 Members of staff of council who provide any information to a particular councillor in the performance of their official functions must also make it available to any other councillor who requests it and in accordance with council procedures.
- 8.5 Councillors and administrators who have a private interest only in council information have the same rights of access as any member of the public.

- 8.6 Despite clause 8.4, councillors and administrators who are precluded from participating in the consideration of a matter under this code because they have a conflict of interest in the matter, are not entitled to request access to council information in relation to the matter unless the information is otherwise available to members of the public, or the council has determined to make the information available under the GIPA Act.

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 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 8.2) and whether they have disclosed a conflict of interest in the matter the information relates to that would preclude their participation in consideration of the matter (see clause 8.6). The general manager or public officer must state the reasons for the decision if access is refused.

Use of certain council information

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

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



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





Schedule 1:

Disclosures of Interest 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 general manager after becoming a councillor or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a councillor or designated person.
3. If you have previously lodged a return with the general manager and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the general manager, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year or the date on which you became a councillor or designated person, (whichever is the later date), to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
4. If you have previously lodged a return with the general manager and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the 12-month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.

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

Important information

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

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

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

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

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

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

as at *[return date]*

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

[councillor's or designated person's signature]

[date]

A. Real Property

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

B. Sources of income

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

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

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

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

Sources of income I received from a trust since 30 June

Name and address of settlor	Name and address of trustee
-----------------------------	-----------------------------

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

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

*[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 or held a position at the return date/at any time since 30 June	Nature of interest (if any)	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)
---	-----------------------------	----------------------------------	---

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

G. Positions in trade unions and professional or business associations

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

H. Debts

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

I. Dispositions of property

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

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 councillor

[Tick or cross one box.]

☐ 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).

☐ An associated person of the councillor has an interest in the land.

☐ An associated company or body of the councillor has an interest in the land.

Matter giving rise to pecuniary interest¹

Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land)²

[Tick or cross one box]

☐ The identified land.

☐ Land that adjoins or is adjacent to or is in proximity to the identified land.

Current zone/planning control

[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]

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

*[Insert name of proposed LEP and identify
proposed change of zone/planning control
applying to the subject land]*

Effect of proposed change of zone/planning
control on councillor or associated person

*[Insert one of the following: "Appreciable
financial gain" or "Appreciable financial loss"]*

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

Councillor's signature

Date

[This form is to be retained by the council's general manager and included in full in the minutes of
the meeting]



Procedures for the
Administration of

The Model Code of Conduct

for Local Councils in NSW

2020



Adopted Yass Valley Council 26 August 2020
Resolution 132/2020

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

2020

ACCESS TO SERVICES

The Office of Local Government is located at:

Street Address: Levels 1 & 2, 5 O'Keefe Avenue, NOWRA NSW 2541

Postal Address: Locked Bag 3015, Nowra, NSW 2541

Phone: 02 4428 4100

Fax: 02 4428 4199

TTY: 02 4428 4209

Email: olg@olg.nsw.gov.au

Website: www.olg.nsw.gov.au

OFFICE HOURS

Monday to Friday

9.00am to 5.00pm

(Special arrangements may be made if these hours are unsuitable)

All offices are wheelchair accessible.

ALTERNATIVE MEDIA PUBLICATIONS

Special arrangements can be made for our publications to be provided in large print or an alternative media format. If you need this service, please contact us on 02 4428 4100.

DISCLAIMER

While every effort has been made to ensure the accuracy of the information in this publication, the Office of Local Government expressly disclaims any liability to any person in respect of anything done or not done as a result of the contents of the publication or the data provided.

© Department of Planning, Industry and Environment 2020

Produced by the Department of Planning, Industry and Environment

Contents

Part 1:	Introduction	4
Part 2:	Definitions	6
Part 3:	Administrative Framework	10
Part 4:	How May Code of Conduct Complaints be Made?	14
Part 5:	How are Code of Conduct Complaints to be Managed?	18
Part 6:	Preliminary Assessment of Code of Conduct Complaints About Councillors or the General Manager by Conduct Reviewers	26
Part 7:	Investigations of Code of Conduct Complaints About Councillors or the General Manager	32
Part 8:	Oversight and Rights of Review	40
Part 9:	Procedural Irregularities	44
Part 10:	Practice Directions	46
Part 11:	Reporting Statistics on Code of Conduct Complaints About Councillors and the General Manager	48
Part 12:	Confidentiality	50

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.

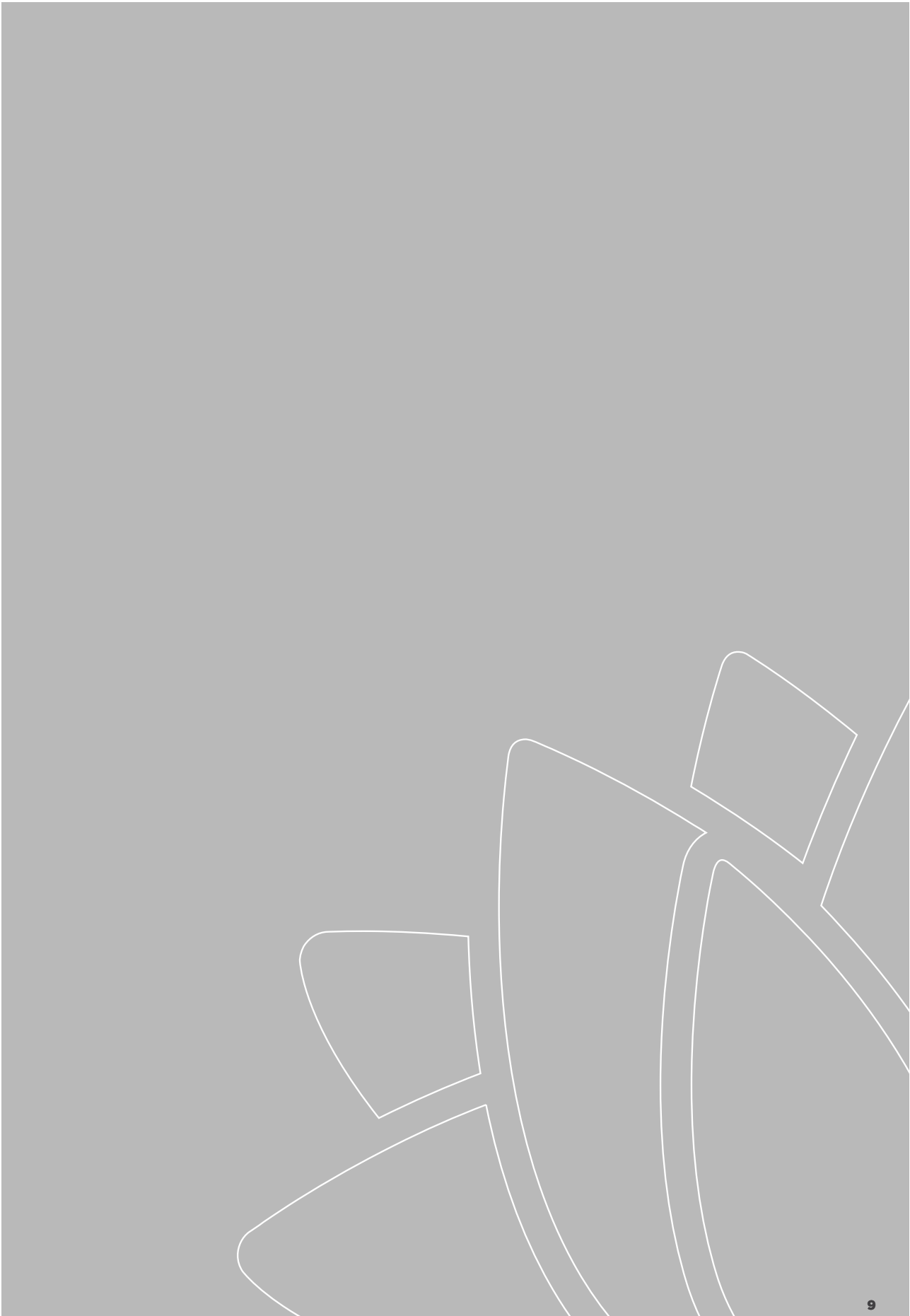
Part 2:

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
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 general manager 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	includes the executive officer of a joint organisation

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.

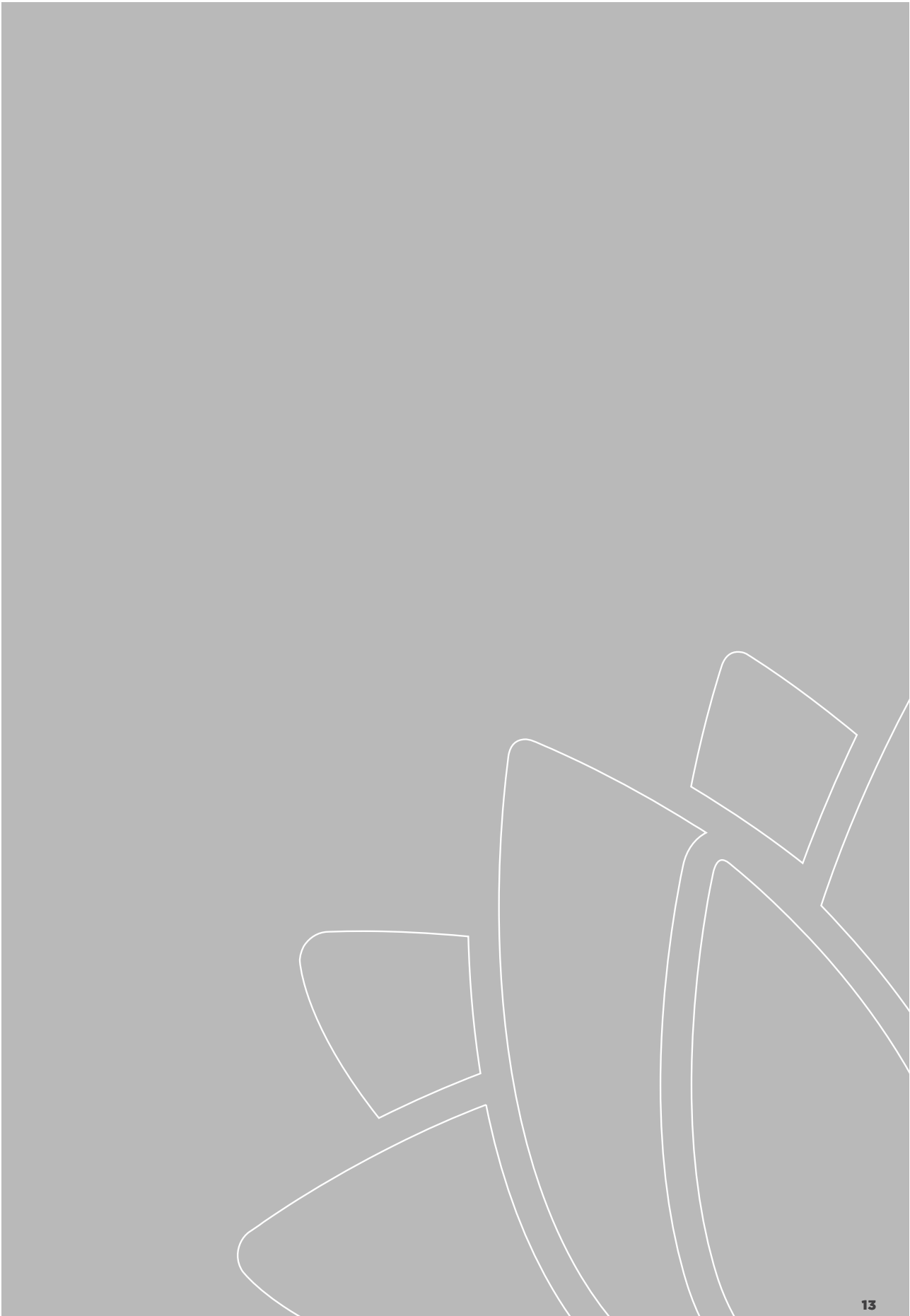
- 3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be 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 general manager must appoint a member of staff of the council or another person (such as, but not limited to, a member of staff of another council or a member of staff of a joint organisation or other regional body associated with the council), to act as a complaints coordinator. Where the complaints coordinator is a member of staff of the council, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.18 The general manager may appoint other members of staff of the council or other persons (such as, but not limited to, members of staff of another council or members of staff of a joint organisation or other regional body associated with the council), to act as alternates to the complaints coordinator.
- 3.19 The general manager 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 3 months of the complainant becoming aware of the alleged conduct.
- 4.5 A complaint made after 3 months may only be accepted if the general manager or their delegate, or, in the case of a complaint about the general manager, the mayor or their delegate, is satisfied that the allegations are serious and compelling grounds exist for the matter to be dealt with under the code of conduct.

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

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

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

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



Part 5:

How are Code of Conduct Complaints to be Managed?

Delegation by general managers and mayors of their functions under this Part

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

Consideration of complaints by general managers and mayors

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

What complaints may be declined at the outset?

- 5.3 Without limiting any other provision in these procedures, the general manager or, in the case of a complaint about the general manager, the mayor, may decline to deal with a complaint 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 general manager) to be dealt with?

- 5.4 The general manager is responsible for the management of code of conduct complaints about members of staff of council (other than complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct) and for determining the outcome of such complaints.
- 5.5 The general manager must refer code of conduct complaints about members of staff of council alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct to the Office.
- 5.6 The general manager may decide to take no action in relation to a code of conduct complaint about a member of staff of council other than one requiring referral to the Office under clause 5.5 where they consider that no action is warranted in relation to the complaint.
- 5.7 Where the general manager decides to take no action in relation to a code of conduct complaint about a member of staff of council, the general manager must give the complainant reasons in writing for their decision and this shall finalise the consideration of the matter under these procedures.

- 5.8 Code of conduct complaints about members of staff of council must be managed in accordance with the relevant industrial instrument or employment contract and make provision for procedural fairness including the right of an employee to be represented by their union.
- 5.9 Sanctions for breaches of the code of conduct by staff depend on the severity, scale and importance of the breach and must be determined in accordance with any relevant industrial instruments or contracts.

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

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

- d) removing or restricting the person's delegation
- e) removing the person from membership of the relevant council committee.

5.17 Prior to imposing a sanction against a delegate of council or a council committee member under clause 5.16, the general manager or any person making enquiries on behalf of the general manager must comply with the requirements of procedural fairness. In particular:

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

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

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

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

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

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

- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
- 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 general manager refers a complaint to the Office under clause 5.20, the general manager must notify the complainant of the referral in writing.

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

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

5.24 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.

5.25 Where the general manager resolves a code of conduct complaint under clause 5.24 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.

5.26 The general manager must refer all code of conduct complaints about councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaints coordinator.

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

5.27 The mayor must refer the following code of conduct complaints about the general manager to the Office:

- a) complaints alleging a breach of the pecuniary interest provisions contained in Part 4 of the code of conduct
- b) complaints alleging a breach of the provisions relating to the maintenance of the integrity of the code of conduct contained in Part 9 of the code of conduct
- c) complaints that are the subject of a special complaints management arrangement with the Office under clause 5.49.

5.28 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 general manager, other than one requiring referral to the Office under clause 5.27, where they consider that no action is warranted in relation to the complaint.

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

- 5.31 Where the mayor considers it to be practicable and appropriate to do so, the mayor may seek to resolve code of conduct complaints about the general manager, other than those requiring referral to the Office under clause 5.27, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.32 Where the mayor resolves a code of conduct complaint under clause 5.31 to the mayor's satisfaction, the mayor must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.33 The mayor must refer all code of conduct complaints about the general manager, other than those referred to the Office under clause 5.27 or finalised under clause 5.30 or resolved under clause 5.31, to the complaints coordinator.

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

- 5.34 Where the general manager or mayor receives a code of conduct complaint that alleges a breach of the code of conduct by both the general manager and the mayor, the general manager or mayor must either:
- a) delegate their functions under this part with respect to the complaint to a member of staff of the council other than the general manager where the allegation is not serious, or to a person external to the council, 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 general manager, mayor or a conduct reviewer may, at any time, refer a code of conduct complaint to an external agency for its consideration, where they consider such a referral is warranted.
- 5.36 The general manager, mayor or a conduct reviewer must report to the ICAC any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct.
- 5.37 Where the general manager, mayor or conduct reviewer refers a complaint to an external agency under clause 5.35, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.

5.38 Referral of a matter to an external agency shall finalise consideration of the matter under these procedures unless the council is subsequently advised otherwise by the referral agency.

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 general manager.

5.41 Where a councillor makes a code of conduct complaint about another councillor or the general manager, and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.

5.42 A request made by a complainant councillor under clause 5.41 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.

5.43 The general manager or mayor, and where the matter is referred to a conduct reviewer, the conduct reviewer, must consider a request made under clause 5.41 before disclosing information that identifies or tends to identify the complainant councillor, but they are not obliged to comply with the request.

5.44 Where a complainant councillor makes a request under clause 5.41, the general manager or mayor or, where the matter is referred to a conduct reviewer, the conduct reviewer, shall notify the councillor in writing of their intention to disclose information that identifies or tends to identify them prior to disclosing the information.

Code of conduct complaints made as public interest disclosures

5.45 These procedures do not override the provisions of the *Public Interest Disclosures Act 1994*. Code of conduct complaints that are made as public interest disclosures under that Act are to be managed in accordance with the requirements of that Act, the council's internal reporting policy, and any guidelines issued by the NSW Ombudsman that relate to the management of public interest disclosures.

5.46 Where a councillor makes a code of conduct complaint about another councillor or the general manager as a public interest disclosure, before the matter may be dealt with under these procedures, the complainant councillor must consent in writing to the disclosure of their identity as the complainant.

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

Special complaints management arrangements

5.48 The general manager may request in writing that the Office enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.

5.49 Where the Office receives a request under clause 5.48, it may agree to enter into a special complaints management arrangement if it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:

- a) imposed an undue and disproportionate cost burden on the council's administration of its code of conduct, 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 general manager, review the arrangement to determine whether it should be renewed or amended.

5.55 A special complaints management arrangement shall expire on the date specified in the arrangement unless renewed under clause 5.54.



Part 6:

Preliminary Assessment of Code of Conduct Complaints About Councillors or the General Manager by Conduct Reviewers

Referral of code of conduct complaints about councillors or the general manager to conduct reviewers

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the general manager that have not been referred to an external agency or declined or resolved by the general manager, mayor or their delegate and that have been referred to them under clauses 5.26 or 5.33, to a conduct reviewer within 21 days of receipt of the complaint by the general manager or the mayor.
- 6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
- a) a panel of conduct reviewers established by the council, 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 general manager by a conduct reviewer

- 6.12 The conduct reviewer is to undertake a preliminary assessment of a complaint referred to them by the complaints coordinator for the purposes of determining how the complaint is to be managed.
- 6.13 The conduct reviewer may determine to do one or more of the following in relation to a complaint referred to them by the complaints coordinator:
- 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 general manager or, in the case of a complaint about the general manager, the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - 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.

Councillors or the General Manager by Conduct Reviewers

- 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 general manager 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 general manager 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 general manager or mayor for resolution

- 6.26 Where the conduct reviewer determines to refer a matter back to the general manager or to the mayor to be resolved by alternative and appropriate means, they must write to the general manager or, in the case of a complaint about the general manager, to the mayor, recommending the means by which the complaint may be resolved.
- 6.27 The conduct reviewer must consult with the general manager or mayor prior to referring a matter back to them under clause 6.13(c).
- 6.28 The general manager or mayor may decline to accept the conduct reviewer's recommendation. In such cases, the conduct reviewer may determine to deal with the complaint by other means under clause 6.13.
- 6.29 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager or, in the case of a complaint about the general manager, the mayor, is responsible for implementing or overseeing the implementation of the conduct reviewer's recommendation.
- 6.30 Where the conduct reviewer refers a matter back to the general manager or mayor under clause 6.13(c), the general manager, or, in the case of a complaint about the general manager, the mayor, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

Complaints assessment criteria

- 6.31 In undertaking the preliminary assessment of a complaint, the conduct reviewer must have regard to the following considerations:
- a) whether the complaint is a code of conduct complaint for the purpose of these procedures
 - b) whether the complaint has been made in a timely manner in accordance with clause 4.4, and if not, whether the allegations are sufficiently serious for compelling grounds to exist for the matter to be dealt with under the council's code of conduct
 - c) whether the complaint is trivial, frivolous, vexatious or not made in good faith
 - d) whether the complaint discloses prima facie evidence of conduct that, if proven, would constitute a breach of the code of conduct
 - e) whether the complaint raises issues that would be more appropriately dealt with by an external agency
 - f) whether there is or was an alternative and satisfactory means of redress available in relation to the conduct complained of
 - g) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour

- h) whether the issue/s giving rise to the complaint have previously been addressed or resolved
- i) any previous proven breaches of the council's code of conduct
- j) whether the conduct complained of forms part of an ongoing pattern of behaviour
- k) whether there were mitigating circumstances giving rise to the conduct complained of
- l) the seriousness of the alleged conduct (having regard to the criteria specified in clause 6.23)
- m) the significance of the conduct or the impact of the conduct for the council
- n) how much time has passed since the alleged conduct occurred
- o) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

Part 7:

Investigations of Code of Conduct Complaints About Councillors or the General Manager

What matters may a conduct reviewer investigate?

- 7.1 A conduct reviewer (hereafter referred to as an “investigator”) may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 7.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or 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 general manager, or, in the case of alleged conduct on the part of the general manager, to the mayor.
- 7.3 The general manager or the mayor or their delegate is to deal with a matter reported to them 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 general manager, or in the case of a complaint about the general manager, to the complainant, the complaints coordinator and the mayor. The notice must:

- a) advise them of the matter the investigator is investigating, 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.

- 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.

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.

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 general manager, or, in the case of a complaint about the general manager, to the mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, 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 general manager, or in the case of a complaint about the general manager, to the respondent, the complainant, the complaints coordinator and the mayor, discontinue their investigation of the matter.

7.24 Where the investigator discontinues their investigation of a matter under clause 7.23, this shall finalise the consideration of the matter under these procedures.

7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 7.20 or to discontinue their investigation except as may be specifically required under these procedures.

Draft investigation reports

7.26 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.

7.27 The investigator must provide their draft report to the respondent and invite them to make a written submission in relation to it within 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 general manager, that disciplinary action be taken under the general manager'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 general manager or, where the report relates to the general manager's conduct, to the mayor, and this will finalise consideration of the matter under these procedures.
- 7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation 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 general manager, that disciplinary action be taken under the general manager'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 general manager or their delegate must refer code of conduct complaints about conduct reviewers to the Office for its consideration.
- 8.5 The general manager must notify the complainant of the referral of their complaint about the conduct reviewer in writing.
- 8.6 The general manager must implement any recommendation made by the Office as a result of its consideration of a complaint about a conduct reviewer.

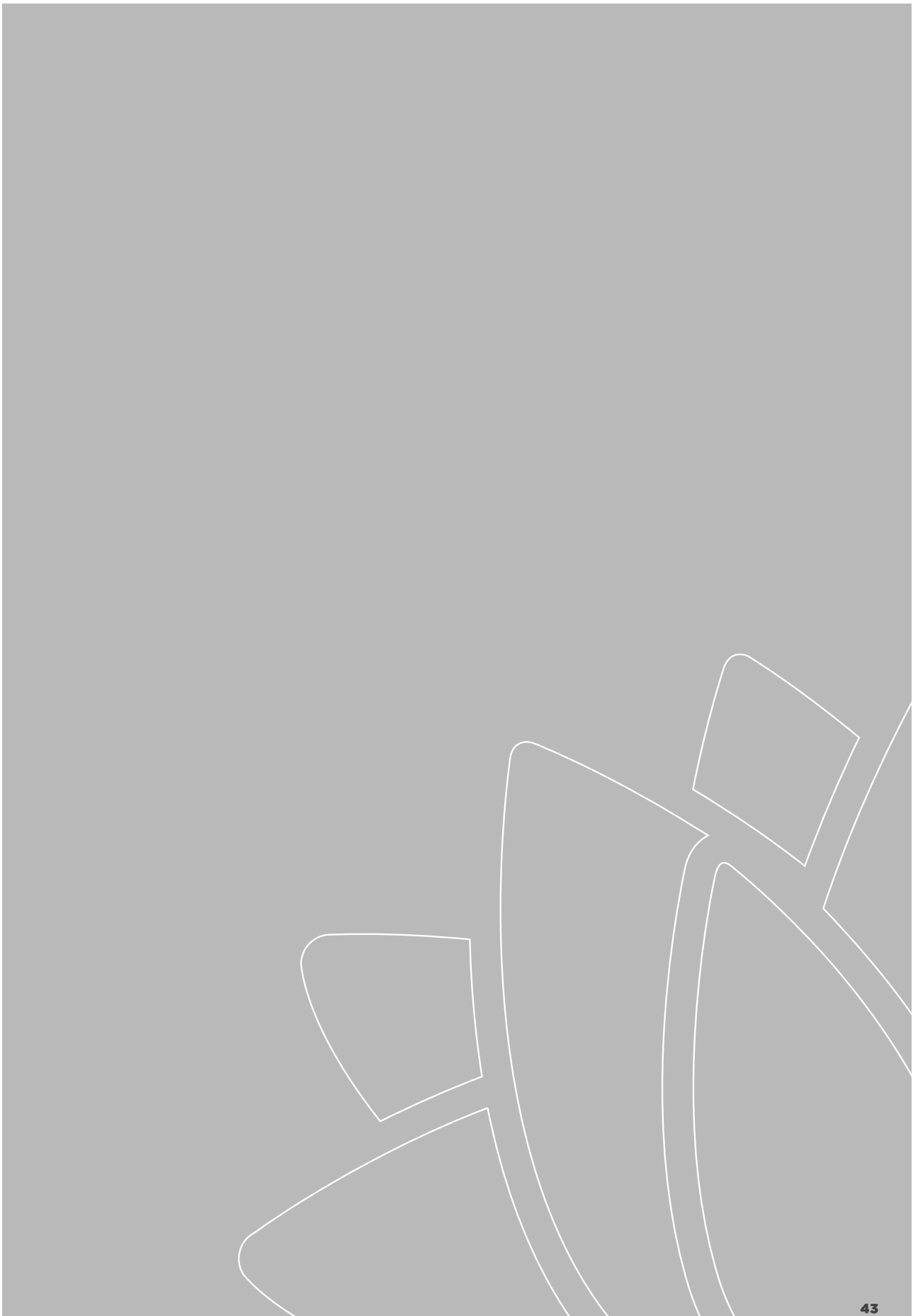
Practice rulings

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

Review of decisions to impose sanctions

- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.58, 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 General Manager

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

Part 12:

Confidentiality

- 12.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.
- 12.2 Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or purported to make, the general manager or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future code of conduct complaint they make or purport to make.
- 12.3 Prior to seeking the Office's consent under clause 12.2, the general manager or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission within a period of not less than 14 days specified by the general manager or their delegate, and consider any submission made by them.
- 12.4 In giving its consent under clause 12.2, the Office must consider any submission made by the complainant to the general manager or their delegate.
- 12.5 The general manager or their delegate must give written notice of a determination made under clause 12.2 to:
- a) the complainant
 - b) the complaints coordinator
 - c) the Office, and
 - d) any other person the general manager or their delegate considers should be notified of the determination.
- 12.6 Any requirement under these procedures that a complainant is to be provided with information about a code of conduct complaint that they have made or purported to make, will not apply to a complainant the subject of a determination made by the general manager or their delegate under clause 12.2.
- 12.7 Clause 12.6 does not override any entitlement a person may have to access to council information under the *Government Information (Public Access) Act 2009* or to receive information under the *Public Interest Disclosures Act 1994* in relation to a complaint they have made.



Communication with the Media

Purpose

To ensure coordinated, accurate and reliable presentation of Yass Valley Council information.

To establish protocols for managing communication between Yass Valley Council and all forms of media to ensure coordinated, accurate and reliable presentation of information.

Scope

This policy applies to Councillors, Council staff and contractors and members of Council Committees.

Definitions

Term	Meaning
Media	Media is defined as all forms of broadcast, print and online media and includes newspapers, television, radio, magazines, professional journals, news websites and social media.

Policy Principles

Council will openly discuss matters of interest with the media, unless disclosure of certain information contravenes Council's obligations of confidentiality or privacy, duty of care or could infringe other laws or regulations that govern its operations. Council reserves the right not to comment on specific issues.

- Media organisations and their representatives will be treated equally and without bias.
- All comments made to the media will be considered as "on the record", regardless of any commitment of "off the record" given by a member of the media.
- Defamation law applies to Councillors and Council Officers as it does to other members of the public. It could be considered defamatory to harm another person's reputation verbally or through the written word.

1. Social Media

- 1.1 To maintain the professional integrity of Council's corporate social media sites, only the Media & Communications staff or such other person authorised by the General Manager, are authorised to post comments on social media sites on Council's behalf.
- 1.2 When using social media in an official capacity on behalf of Council, Council Officers must:
 - 1.2.1 maintain the high standard of professionalism expected of all employees;
 - 1.2.2 never engage in behaviour that is harassing, bullying, illegal or in breach of Council's Code of Conduct whether using an official or private social media account;
 - 1.2.3 represent Council professionally when publishing content in an official capacity;
 - 1.2.4 adhere to the protocols outlined in paragraph 1 relating to who is authorised to post comments on Council's behalf; and
 - 1.2.5 under no circumstances disclose information or make commitments on behalf of Council unless authorised to do so.

2. Broadcast and Print Media

- 2.1 All media enquiries should be directed to the Media & Communications staff, and if not available the relevant Director, General Manager or Mayor.
- 2.2 No comment can be made to the media, or information distributed, without the specific approval of the relevant Director or the General Manager. Directors may nominate Managers to respond on specific issues or specialist members of staff to respond to technical questions on operational matters only.
- 2.3 The Media & Communications staff are responsible for coordinating and distributing articles, columns and newsletters on behalf of the Mayor or the Council and is responsible for ensuring the information contained in the document is accurate, checked and distributed in an approved format.
- 2.4 The Media & Communications staff are responsible for preparing and distributing media releases. All media releases must be approved by the relevant Director or the General Manager prior to release, (or the Mayor in the case of a Mayoral media release) and must be in an approved format.
- 2.5 Photos of individuals will not be provided to the media for their use unless consent for use of the image has been obtained.

3. Councillors and the Media

- 3.1 Councillors may not speak to the media on behalf of Council unless authorised by the Mayor.
- 3.2 Councillors should support Council decisions and refrain from using the media to make negative personal reflections on each other or comments that could be interpreted as such and which are reasonably likely to undermine public confidence in the Council, Council Officers or local government generally.
- 3.3 As members of the community, Councillors are entitled to enter into public debate in their private capacity and make comment on Council affairs, provided they clearly state that such public comment reflects their personal opinion and not that of the Council or a Council Committee.

4. Council Officers and the Media

- 4.1 Council Officers should support Council decisions and refrain from using the media to make negative personal reflections on each other or comments that could be interpreted as such and which are reasonably likely to undermine public confidence in the Council, Councillors or local government generally.
- 4.2 Council Officers must not make political or controversial statements in or to the media relating to Council affairs, decisions and/or events, or about Councillors or other Council Officers which are likely to generate negative publicity for Council.
- 4.3 As members of the community, Council Officers are entitled to enter into public debate and make comment on civic affairs provided they do not give the impression they are speaking in their official position for or on behalf of Council.
- 4.5 Committee Members and the Media
 - 4.5.1 Members of Council Committees must not comment to the media on matters relating to the Committee without the approval of the Mayor and/or General Manager and should not make comments that are contrary to decisions of Council.

Responsibilities & Review

The Media and Communications Coordinator will:

- Provide all necessary administrative support for the operation of this policy
- Develop and document any procedures for the effective implementation of this policy
- Review this policy. The review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guidelines. This policy will be reviewed every two years from the adoption date. The next review date is 02/01/2022.

References

This policy is to be read in conjunction with the following:

Legislation	Privacy Act 1988
	Defamation Act 1988
	Code of Conduct
Policies and procedures	

Approval History

Stage	Date	Comment	MagiQ Reference
Original	28 August 2013	Approved at Council	Min No. 274
Reviewed	27 November 2019	Approved at Council	Min No. 273 MagiQ 351403

Ownership and Approval

Responsibility	Role
Author	Media & Communications Coordinator
Owner	General Manager
Endorser	EMT
Approver	Council

Policy: SOCIAL MEDIA

CR-POL-7

Service: Media & Communications

Responsible Officer: Media & Communications Officer

1. INTRODUCTION

To provide a framework and guidelines in respect to the expectations of Council Officials when engaging in social media in both an official and personal capacity.

2. POLICY OBJECTIVE

Information technology has changed the way in which people communicate and share information. Social media represents opportunities to increase engagement with residents, listen more and directly harness local opinions.

Social media can:

- a) Increase resident's access to Council
- b) Increase Council's access to residents and improve the accessibility of Council communication
- c) Allow Council to be more active in its relationships with residents, partners and other stakeholders
- d) Increase the level of trust in Council
- e) Reach targeted audiences on specific issues, events and programs
- f) Provide effective, fast communication channels during crises
- g) Provide insights into how Council is perceived

3. POLICY SCOPE

This Policy applies to all Council Officials, which includes Councillors, staff (permanent, temporary or casual), volunteers, contractors, administrators, council committee members, conduct reviewers and delegates of council.

4. POLICY STATEMENT

4.1. Guiding Principals

Yass Valley Council uses approved social media pages to:

- a) Develop stronger relationships with community members
- b) Provide an informal and accessible way for the public to communicate with Council
- c) Support traditional media by broadening its reach and scope
- d) Promote selected services, events, projects, policies and activities
- e) Expand Council's community engagement opportunities
- f) Provide essential updates to the community during a crises or emergency
- g) Respond or clarify an issue in detail
- h) Protect Council's reputation by monitoring social media activity that relates to Council
- i) Enhance Council's reputation

4.2. Content

To ensure accurate distribution of Council information it is requested that Council Officials only share information;

- a) That is publicly available on Yass Valley Council's website or social media channels.
- b) In adopted policies.
- c) Resolutions of Council.

If Council Officials become aware that there is an information gap they are to notify the Media & Communication Officer immediately so that accurate information is sourced and made available as soon as possible.

4.3. Application

This policy applies to all Council Officials that make use of social media:

- a) In a work related capacity.
- b) When reference is made on behalf of Council or representing Council, or
- c) In a personal capacity where the Council Official chooses to make references to Yass Valley Council, its people, customers or business related individuals or organisations.

This policy does not apply to personal use of social media when no reference or inference is made to Council related issues.

When using social media in an official capacity on behalf of Council, Council Officials must:

- maintain the high standard of professionalism expected of all employees;
- never engage in behaviour that is harassing, bullying, illegal or in breach of Council's Code of Conduct whether using an official or private social media account;
- represent Council professionally when publishing content in an official capacity; and
- under no circumstances disclose information or make commitments on behalf of Council unless authorised to do so.

Council Officials who are residents, ratepayers or customers of Council services are not precluded from participating in community debate about an issue that personally affects them. However, they must make it clear that they are commenting as a resident/ratepayer, not as a Council Official. It is important that Council Officials do not provide personal comments that can be misconstrued by readers as representing an official Council position.

Any comments made in regard to Council, or Council operations, where the confidential information was acquired through your position as a Council Official, should never be shared in a public forum.

Council Officials who administer their own personal social media accounts are welcome to do so, provided that their application is in line with this policy and Yass Valley Council's Code of Conduct.

4.4. Yass Valley Council's official social media platforms

Facebook:

- Yass Valley Council
- Yass Caravan Park
- Yass Valley Library
- Yass Valley Animal Shelter
- Yass Valley Home Living Support Service
- Visit Yass Valley
- Country Roads Safety
- Yass Valley Youth Council (closed group)
- Yass Animal Officer (profile)
- Gill Yvc Comms (profile)
- Yass Valley Tourism Industry (closed group)

- Matt Yvc Trainee (profile)

Twitter:

- YVC Mayor
- Visit Yass Valley

LinkedIn:

- Yass Valley Council

Google+

- Yass Valley Visitor Information Centre

YouTube

- Yass Valley Visitor Information Centre

Instagram

- Visit Yass Valley

The creation of additional social media accounts must first seek approval from the General Manager.

4.5. Conduct

The conduct of Council Officials in their professional capacity, when at work or when using Council equipment, must always comply with Council policies and procedures, including Council's Code of Conduct.

Any comments and contributions made by Council Officials when posting in a private capacity also fall under this Council policy, including the Code of Conduct, where those comments are made about Yass Valley Council, its services, its people, its Councillors and/or other business related individuals or organisations.

Inappropriate comments, cyber bullying, harassment or intimidation of other Council employees, contractors, customers or providers may subject a Council Official to disciplinary action.

4.6. Legal Responsibilities

Information added to Social Media sites by Council Officials must comply with the provisions of the Code of Conduct, uphold confidentiality, privacy and copyright provisions and not subject Council to legal action. For example, where Council has obtained a photo from a third party it must be determined that any license associated with that agreement does not prevent the use of that photo online.

No confidential information or information that is private in nature should be transmitted or stored online as a result of the use of Social Media sites. Council Officials must ensure that permission has been obtained before transferring any information to a social media site that may be considered private, for example, photographs of minors or information about ratepayers.

4.7. Dealing with Offensive Behaviour

Yass Valley Council will not tolerate content that is offensive, obscene, defamatory, threatening, harassing, bullying, discriminatory, hateful, racist, sexist, infringes copyright, constitutes contempt of courts, breaches a court suppression order, or is otherwise unlawful.

Pages are monitored and such content will be moderated and may be removed and users who breach Council's Social Media Policy may be banned from accessing Council's social media pages. Council also reserves the right to moderate content from individuals who seek to monopolise and dominate Council's social media pages for their own purposes.

4.8. Record Keeping

Records in all formats must be managed in accordance with legislation and Council's record keeping program. Records that are created as a result of using Social Media must be stored in Council's corporate recordkeeping system.

Council Officials who administer their own personal social media accounts need to be responsible for and use their own judgement on what should be recorded officially.

5. IMPLEMENTATION

5.1. Roles and Responsibilities

The following Council Officials are responsible for the implementation and the adherence to this policy:

- The Media & Communications Officer manages the corporate Council accounts and oversees the individual services who are authorised to manage their corporate accounts.
- The Economic Development & Tourism Manager manages the Tourism related social media platforms and is authorised to delegate responsibility to staff within that service.
- Council Officials who administer their own personal social media accounts are free to do so, provided that their application is in line with this policy and Yass Valley Council's Code of Conduct.
- Councillors can post on social media opinions/views/positions on matters relevant to Council, identifying that it is provided as their own personal opinion/view/position, and not the official opinion/view/position of Council, unless delegated by the Mayor as spokesperson.
- If an official statement is required on social media, it will be issued by the Mayor or General Manager.
- The creation of additional, official social media accounts can only be approval from the General Manager.

5.2. Communication

This Policy will be communicated to the community and staff in accordance with Council's GOV-OP-1 Policy/Procedure Development and Review Procedure and Council's regular Business Paper process. Following adoption by Council the Policy will be made available on Council's website.

5.3. Associated Documents

The following documentation is to be read in conjunction with this policy.

- CR-POL-8 – Public Communications Policy
- Model Code of Conduct for Local Councils in NSW

6. REVIEW

Review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guidelines.

The standard review period will be every four years from the effective date.

The Media & Communications Officer is responsible for the review of this policy.

7. LEGISLATIVE AND LEGAL FRAMEWORK

This policy is to be read in conjunction with the following:

- Model Code of Conduct for Local Councils in NSW
- CR-POL-8 – Public Communications Policy
- *Copyright Amended Act 2006*
- *Privacy Legislation Amendment Act 2006*
- *Privacy and Personal Information Protection Act 1998*
- *State Records Act 1998*

Council Officials shall refrain from personal activities that would conflict with proper execution and management of Council's CR-POL-7 Social Media Policy. Council's Code of Conduct provides guidance for recognising and disclosing any conflicts of interest.

8. DEFINITIONS

Social Media is the use of online tools for communication, promotion and conversation – blogs, microblogs (eg Twitter), social networks (eg Facebook), podcasts and video (eg YouTube) are all types of social media.

Council Official includes Councillors, staff (permanent, temporary or casual), volunteers, contractors, administrators, council committee members, conduct reviewers and delegates of council.

9. HISTORY

Minute No	Date of Issue	Action	Author	Checked By
268	26 October 2016	Written	Gill Elphinston	Council Meeting
194	26 July 2017	Adopted	Gill Elphinston	Council Meeting

Document No: CR-POL-7	Created/Revised:13/07/2017	Review date: Sept 2021
Version No: 2	Author: Media & Communications Officer	Doc Type: 30
File Name: CR-POL-7 Social Media Policy	Approved By: Council Meeting	26 July 2017



Terms of Reference
Murrumbateman Playground Project Committee

1	Name of Committee	Murrumbateman Playground Project Committee
2	Terms of Reference	<ul style="list-style-type: none"> To provide advice to Council on the location and development of the Murrumbateman Category 1 Playground from establishment phase until completion of a concept design To assist in drafting recommendations and actions for the implementation of the project To act as champions for the project within the broader community
3	Policies and legislation the committee is required to comply with in addition to those set out in clause 5.3 of the standard constitution	<i>Local Government Act 1993</i> <i>Crown Land Management Act 2016</i> NSW Everyone Can Play Guidelines Yass Valley Local Environmental Plan 2013 Draft Yass Valley Open Space Strategy Yass Valley Park and Playground Strategy 2017
4	Maximum number and make-up of Committee members	3 x Councillors 3 x community members, to be comprised of: <ul style="list-style-type: none"> Youth representative (Murrumbateman resident between ages of 15-24 years) Murrumbateman Progress Association representative Murrumbateman community member
5	Council employees	<ul style="list-style-type: none"> Director Infrastructure & Assets Director Planning & Environment Manager Strategic Planning Manager Recreational Assets
6	Area assigned to committee and/or map	Murrumbateman
7	Additional clauses or amendments to Standard Constitution or Schedule. To be listed in full – body of constitution not to be altered	N/A
8	Minimum number of meetings per annum	As required

Version 1