

ATTACHMENTS

GENERAL MEETING

Wednesday 11 May 2022 at 6:30PM



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ATTACHMENT/S

REPORT NO. CS4/22

ITEM 1

1. GENERAL MANAGER DIVISION POLICIES AND CODES UPDATES

2. CORPORATE SUPPORT DIVISION POLICIES UPDATES



POLICY REGISTER

	CODE OF CONDUCT FOR COUNCIL STAFF
Folder Number:	F2007/00307
POLICY OWNER / DIVISION:	Office of the General Manager
POLICY OWNER / BRANCH:	Risk and Audit
FUNCTION:	Governance
RELEVANT LEGISLATION:	Section 440 Local Government Act 1993
POLICY ADOPTION/AMENDMENT DATE:	9 September 2020 REPORT NUMBER : GM24/20
REVIEW YEAR:	2021
Amendment History:	23 March, 2005 (Report GM05/05) 14 September 2005 (Report GM12/05) 9 May 2007 (Report GM07/07) 9 July 2008 (Report GM09/08) 12 November 2008 (Report GM14/08) 20 April 2011 (Report CC10/11) 15 June 2011 (Report GM15/11)) 20 February 2013 (Report GM1/13) 17 April 2013 (Report GM2/13) 8 April 2015 (Report GM2/13) 8 April 2015 (Report CS6/15) 10 February 2016 (Report GM1/16) 8 August 2018 (Report GM3/18) 10 April 2019 (Report GM3/19)
RELATED POLICIES:	Procedures for the Administration of the Code of Conduct

ATTACHMENT 1 - ITEM

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PART 1 INTRODUCTION

This code of conduct applies to members of council staff, including general managers. It is based on the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct") which has been prescribed under the *Local Government (General) Regulation 2005* ("the Regulation").

Section 440 of the *Local Government Act 1993* ("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).

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.

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

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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.
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
conduct	includes acts and omissions
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 400O of the LGA
LGA	Local Government Act 1993
mayor	includes the chairperson of a county council or a joint organisation
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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 Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
the Regulation	the Local Government (General) Regulation 2005
wholly advisory committee	a council committee that the council has not delegated any functions to

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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

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- 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

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Obligations in relation to meetings

- 3.15 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.
- 3.16 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other council officials or any members of the public present during council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).
- 3.17 You must not engage in conduct that disrupts council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.

Additional clauses added by Council

Public comment

- 3(i) That in respect of reporting the formal position of Council to the media, and a spokesperson speaking on behalf of the Council to the media, the following will apply:
 - The Media Coordinator, Communications & Engagement Manager and Manager Strategy & Place shall be the initial point of contact to the media and are to be notified of all enquiries from the media;
 - b) The Mayor, General Manager, Divisional Managers, Media Coordinator, Communications & Engagement Manager and Manager Strategy & Place are the only persons authorised to respond to enquiries from the media;
 - Responses to the media are to be restricted to the dissemination of factual information relevant to the person's area of responsibility, and are not permitted to be of a subjective, emotive or partisan nature;
 - All press releases and media statements are to be signed off by the relevant Divisional Manager or General Manager, following consultation with the Mayor or Mayor's delegate.
- 3(ii) While it is recognised that staff members, as members of the community, may have a right to make public comment and enter into public debate on political and social issues, care is to be taken not to convey the impression that such comment is official comment made in your capacity as a staff member.

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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
 - a) your interest, or

is:

- 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

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- e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
- f) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
- g) an interest you have arising from the proposed making by 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
- h) 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
- i) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
- an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a council committee member
- 4.7 For the purposes of clause 4.6, "relative" has the same meaning as in clause 4.4, but includes your spouse or de facto partner.

Additional clauses added by Council

- 4(i) 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 pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - (b) if the pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest by complying with clauses 4.25 and 4.26.
- 4(ii) The decision on which option should be taken to manage the conflict of interest must be made in consultation with your manager.
- 4(iii) In respect of any decision taken in managing a pecuniary conflict of interest a permanent file note of the decision and course of action to be followed must be retained in Council's Electronic Document Records Management System and all other affected council officials notified of the arrangement.

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- 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 clause 4.18, 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 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 a council committee member?

4.16 A council committee member must disclose pecuniary interests in accordance with clause 4.25 and comply with clause 4.26.

Code of Conduct for Council Staff Page 11 of 37 Date printed: 9 September 2020 4.17 For the purposes of clause 4.16, a "council committee member" includes a member of staff of council who is a member of the committee.

Disclosure of interests in written returns

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

Disclosure of pecuniary interests at meetings

- 4.25 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 committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.26 The council committee member must not be present at, or in sight of, the meeting of the committee:
 - a) at any time during which the matter is being considered or discussed by the committee, or
 - b) at any time during which the committee is voting on any question in relation to the matter.
- 4.27 A disclosure made at a meeting of a council committee must be recorded in the minutes of the meeting.

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- 4.28 A general notice may be given to the general manager in writing by a council committee member to the effect that the council committee member, or the council committee member's spouse, de facto partner or relative, is:
 - a) a member of, or in the employment of, a specified company or other body, or
 - b) a partner of, or in the employment of, a specified person.

Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council committee after the date of the notice.

- 4.29 A council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.30 A person does not breach clauses 4.25 or 4.26 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.31 The Minister for Local Government may, conditionally or unconditionally, allow a council committee member who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion that it is in the interests of the electors for the area to do so.
- 4.32 A council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.31, must still disclose the interest they have in the matter in accordance with clause 4.25.

Note: For the purpose of clauses 4.25 to 4.32, a "council committee member" includes a member of staff of council who is a member of a council committee.

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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 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.

Code of Conduct for Council Staff Page 14 of 37 Date printed: 9 September 2020 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:
 - by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.25 and 4.26.
- 5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.
- 5.12 If you are a member of staff of council other than the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the mayor.

Loss of quorum as a result of compliance with this Part

- 5.13 The Minister for Local Government may, conditionally or unconditionally, allow a council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion that it is in the interests of the electors for the area to do so.
- 5.14 Where the Minister exempts a committee member from complying with a requirement under this Part under clause 5.13, the committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

Note: For the purpose of clauses 5.13 and 5.14, a "council committee member" includes a member of staff of council who is a member of a council committee.

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- 5.15 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.
- 5.16 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.
- 5.17 The general manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council, or that might conflict with the staff member's council duties.
- 5.18 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council if prohibited from doing so.
- 5.19 Members of staff must ensure that any outside employment, work or business they engage in will not:
 - a) conflict with their official duties
 - b) involve using confidential information or council resources obtained through their work with the council including where private use is permitted
 - c) require them to work while on council duty
 - d) discredit or disadvantage the council
 - pose, due to fatigue, a risk to their health or safety, or to the health and safety of their coworkers.

Personal dealings with council

- 5.20 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.
- 5.21 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.

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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
 - 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

Code of Conduct for Council Staff Page 17 of 37 Date printed: 9 September 2020 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.

Additional clause added by Council

6(i) Where you are offered a gift or benefit and refuse to accept or receive it, you must complete a Gifts and Benefits Declaration Form if you believe it was offered with a suspected improper motive.

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"

Code of Conduct for Council Staff Page 18 of 37 Date printed: 9 September 2020 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.
- 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.

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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:
 - 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 in the exercise of the functions of the staff member
 - 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.

Obligations of staff

- 7.3 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.
- 7.4 Members of staff of council must:
 - a) give their attention to the business of the council while on duty
 - b) ensure that their work is carried out ethically, efficiently, economically and effectively
 - c) carry out reasonable and lawful directions given by any person having authority to give such directions
 - d) give effect to the lawful decisions, policies and procedures of the council, whether or not the staff member agrees with or approves of them
 - e) ensure that any participation in political activities outside the service of the council does not interfere with the performance of their official duties.

Inappropriate interactions

- 7.5 You must not engage in any of the following inappropriate interactions:
 - a) councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
 - 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

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- e) councillors and administrators being overbearing or threatening to council staff
- f) council staff being overbearing or threatening to councillors or administrators
- g) councillors and administrators making personal attacks on council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media
- h) councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
- 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
- council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals

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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.

Refusal of access to information

8.7 Where the general manager or public officer determine to refuse access to information requested by a councillor or administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the councillor or administrator to perform their official functions (see clause 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

- 8.8 In regard to information obtained in your capacity as a council official, you must:
 - a) subject to clause 8.13, only access council information needed for council business
 - b) not use that council information for private purposes
 - c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your position with council
 - d) only release council information in accordance with established council policies and procedures and in compliance with relevant legislation.

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Use and security of confidential information

- 8.9 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.
- 8.10 In addition to your general obligations relating to the use of council information, you must:
 - a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
 - b) protect confidential information
 - c) only release confidential information if you have authority to do so
 - d) only use confidential information for the purpose for which it is intended to be used
 - e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
 - f) not use confidential information with the intention to cause harm or detriment to 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

- 8.11 When dealing with personal information you must comply with:
 - a) the Privacy and Personal Information Protection Act 1998
 - b) the Health Records and Information Privacy Act 2002
 - c) the Information Protection Principles and Health Privacy Principles
 - d) the council's privacy management plan
 - e) the Privacy Code of Practice for Local Government

Use of council resources

- 8.12 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.
- 8.13 Union delegates and consultative committee members may have reasonable access to council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:
 - a) the representation of members with respect to disciplinary matters
 - b) the representation of employees with respect to grievances and disputes
 - c) functions associated with the role of the local consultative committee.
- 8.14 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.
- 8.15 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.

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

Internet access

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

Additional clause added by Council

Use of social media

8(i) You must not use social media to post or share comments, photos, videos, electronic recordings or other information that: is offensive, humiliating, threatening or intimidating to other council officials or those that deal a) with the council contains content about or concerning the council that is false, misleading or deceptive b) divulges confidential council information c) d) breaches the privacy of other council officials or those that deal with council contains allegations of suspected breaches of this code or information about the e) consideration of a matter under the Procedures or f)could be perceived to be an official comment on behalf of the council where you have not been authorised to make such comment.

This Part only applies to your use of social media in an official capacity or in connection with your role as a council official. The Part does not apply to personal use of social media that is not connected with your role as a council official.

- 8(i) You must comply with the Council's code of conduct when using social media in an official capacity or in connection with your role as a council official.
- 8(ii) You must not use social media to post or share comments, photos, videos, electronic recordings or other information that:
 - a) <u>is defamatory, offensive, humiliating, threatening or intimidating to other council officials or</u> <u>members of the public</u>
 - b) contains profane language or is sexual in nature
 - c) <u>constitutes harassment and/or bullying within the meaning of the Model Code of Conduct for</u> <u>Local Councils in NSW</u>, or is unlawfully discriminatory
 - d) <u>is contrary to your duties under the Work Health and Safety Act 2011 and your responsibilities</u> <u>under any policies or procedures adopted by the Council to ensure workplace health and safety</u>

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- e) contains content about the Council, council officials or members of the public that is misleading or deceptive.
- f) divulges confidential Council information
- g) breaches the privacy of other council officials or members of the public
- h) contains allegations of suspected breaches of the Council's code of conduct or information about the consideration of a matter under the *Procedures for the Administration of the Code of* <u>Conduct</u>
- i) could be perceived to be an official comment on behalf of the Council where you have not been authorised to make such comment
- j) commits the Council to any action
- k) violates an order made by a court
- I) breaches copyright
- m) advertises, endorses or solicits commercial products or business
- n) <u>constitutes spam</u>
- o) is in breach of the rules of the social media platform
- 8(iii) You must:
 - a) attribute work to the original author, creator or source when uploading or linking to content produced by a third party
 - b) <u>obtain written permission from a minor's parent or legal guardian before uploading content in</u> which the minor can be identified
- 8(iv) You must exercise caution when sharing, liking, retweeting content as this can be regarded as an endorsement and/or publication of the content.
- 8(v) You must not incite or encourage other persons to act in a way that is contrary to the requirements of this Part.
- Council record keeping
- 8.20 You must comply with the requirements of the *State Records Act 1998* and the council's records management policy.
- 8.21 All information created, sent and received in your official capacity is a council record and must be managed in accordance with the requirements of the *State Records Act 1998* and the council's approved records management policies and practices.
- 8.22 All information stored in either soft or hard copy on council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the council and will be treated as council records, regardless of whether the original intention was to create the information for personal purposes.
- 8.23 You must not destroy, alter, or dispose of council information or records, unless authorised to do so. If you need to alter or dispose of council information or records, you must do so in consultation with the council's records manager and comply with the requirements of the *State Records Act 1998*.

Councillor access to council buildings

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- 8.24 Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or their delegate) or as provided for in the procedures governing the interaction of councillors and council staff.
- 8.25 Councillors and administrators must ensure that when they are within a staff only area they refrain from conduct that could be perceived to improperly influence council staff decisions.

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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
 - 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.

Code of Conduct for Council Staff Page 27 of 37 Date printed: 9 September 2020 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 the general manager 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.

Additional clause added by Council

Support for staff

9(i) A staff member who honestly and faithfully observes the requirements of this Code and any relevant law can expect the publicly expressed support of council and their colleagues against unfair allegations of dishonesty or partiality of their public or professional duties.

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SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.18

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.

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property includes money.

return date means:

any occupation.

- a) in the case of a return made under clause 4.18 a), the date on which a person became a councillor or designated person
- b) in the case of a return made under clause 4.18 b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.18 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 factor 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 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 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 4.18 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

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- 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:
 - 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.

<u>Gifts</u>

9. A person making a return under clause 4.18 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
 - 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 4.18 of this code must disclose:
 - 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

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- 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 4.18 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
 - 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 4.18 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.

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- 21. A person making a return under clause 4.18 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 4.18 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 4.18 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.
- A disposition of real property need not be disclosed if it was made prior to a person becoming a designated person.

Sources of income

- 26. A person making a return under clause 4.18 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:
 - 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.

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- 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 designated person need not be disclosed.

<u>Debts</u>

a)

- 30. A person making a return under clause 4.18 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.
- 31. A liability to pay a debt must be disclosed by a person in a return made under clause 4.18 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.
- 32. A liability to pay a debt need not be disclosed by a person in a return if.
 - 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:
 - 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:
 - 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
 - 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 designated person.

Discretionary disclosures

33. 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.

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SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 4.18

'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*.
- 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 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 4.18 of the 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 4.20 of the 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 4.18 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

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,

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

as at [return date]

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

[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

Name	and	address	of	employer	or Name under which
descrip	otion o	of office he	eld (if applicable	e) partnership
					conducted (if
					applicable)
					Name and address of employer description of office held (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

undertaken

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 whoDates on which travel was undertakenName of States,made any financial or other contributionTerritories of theto any travel undertaken by me at anyCommonwealth andtime since 30 Juneoverseas countries inwhich travel was

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E. Interests and positions in corporation	s		
Name and address of each corporation	Nature of interest	(if Description of	Description of
in which I had an interest or held a	any)	position (if any)	principal objects (if
position at the return date/at any time			any) of corporation
since 30 June			(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 as	sociations
Name of each trade union and each professional or	Description of position
business association in which I held any position (whether	
remunerated or not) at the return date/at any time since 30	
June	

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

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POLICY REGISTER

	CODE OF CONDUCT FOR COUNCILLORS
FOLDER NUMBER:	F2007/00307
POLICY OWNER / DIVISION:	Office of the General Manager
POLICY OWNER / BRANCH:	Risk and Audit
FUNCTION:	Governance
RELEVANT LEGISLATION:	Section 440 Local Government Act 1993
POLICY ADOPTION/AMENDMENT DATE:	9 September 2020 REPORT NUMBER: GM24/20
REVIEW YEAR:	2021
Amendment History:	23 March, 2005 (Report GM05/05) 14 September 2005 (Report GM12/05) 9 May 2007 (Report GM07/07) 9 July 2008 (Report GM09/08) 12 November 2008 (Report GM14/08) 20 April 2011 (Report CC10/11) 15 June 2011 (Report GM15/11)) 20 February 2013 (Report GM15/11)) 20 February 2013 (Report GM1/13) 17 April 2013 (Report GM2/13) 8 April 2015 (Report CS6/15) 10 February 2016 (Report GM1/16) 8 August 2018 (Report CS33/18) 10 April 2019 (Report GM3/19)
RELATED POLICIES:	Procedures for the Administration of the Code of Conduct

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PART 1 INTRODUCTION

This code of conduct applies to councillors. It is based on the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct") which has been prescribed under the *Local Government (General) Regulation 2005* ("the Regulation").

Section 440 of the *Local Government Act 1993* ("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).

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.

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.

ATTACHMENT 1 - ITEM

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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.
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 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
conduct	includes acts and omissions
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
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</i> 1979
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 4000 of the LGA
LGA	Local Government Act 1993
	Code of Conduct for Councillors

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local planning panel	a local planning panel constituted under the Environmental Planning and Assessment Act 1979
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 Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
the Regulation	the Local Government (General) Regulation 2005
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

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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

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- 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.

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- 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
 - 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.

Additional clauses added by Council

Public comment

3(i) That in respect of reporting the formal position of Council to the media, and a spokesperson speaking on behalf of the Council to the media, the following will apply:

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- The Media Coordinator, Communications & Engagement Manager and Manager Strategy & Place shall be the initial point of contact to the media and are to be notified of all enquiries from the media;
- b) The Mayor, General Manager, Divisional Managers, Media Coordinator, Communications & Engagement Manager and Manager Strategy & Place are the only persons authorised to respond to enquiries from the media;
- Responses to the media are to be restricted to the dissemination of factual information relevant to the person's area of responsibility, and are not permitted to be of a subjective, emotive or partisan nature;
- All press releases and media statements are to be signed off by the relevant Divisional Manager or General Manager, following consultation with the Mayor or Mayor's delegate.
- 3(ii) All councillors retain the right to speak to the media, and to make a public statement or post to the media in their capacity as a councillor.

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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

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- e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
- f) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
- g) an interest you have arising from the proposed making by 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
- h) 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
- an interest relating to the payment of fees to councillors (including the mayor and deputy mayor)
- 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
- 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
- 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
- m) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor
- 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.

Additional clause added by Council

- 4(i) 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 pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - (b) if the pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest by complying with clauses 4.16 and 4.17.

Code of Conduct for Councillors Page 11 of 42 Date printed: 9 September 2020 4(ii) In respect of any decision taken in managing a pecuniary conflict of interest a permanent file note of the decision and course of action to be followed must be retained in Council's Electronic Document Records Management System and all other affected council officials notified of the arrangement.

What disclosures must be made by a councillor?

- 4.8 A councillor:
 - a) must prepare and submit written returns of interests in accordance with clause 4.9, and
 - must disclose pecuniary interests in accordance with clause 4.16 and comply with clause 4.17 where it is applicable.

Disclosure of interests in written returns

- 4.9 A councillor 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 interests as specified in schedule 1 to this code within 3 months after:
 - a) becoming a councillor, and
 - b) 30 June of each year, and
 - the councillor 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).
- 4.10 A person need not make and lodge a return under clause 4.9 paragraphs a) and b) if:
 - d) they made and lodged a return under that clause in the preceding 3 months, or
 - e) they have ceased to be a councillor in the preceding 3 months.
- 4.11 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.
- 4.12 The general manager must keep a register of returns required to be made and lodged with the general manager.
- 4.13 Returns required to be lodged with the general manager under clause 4.9 a) and b) must be tabled at the first meeting of the council after the last day the return is required to be lodged.
- 4.14 Returns required to be lodged with the general manager under clause 4.9 c) must be tabled at the next council meeting after the return is lodged.
- 4.15 Information contained in returns made and lodged under clause 4.9 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

Disclosure of pecuniary interests at meetings

- 4.16 A councillor 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.
- 4.17 The councillor 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

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- b) at any time during which the council or committee is voting on any question in relation to the matter.
- 4.18 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 4.16 and 4.17 where they participate in the meeting by telephone or other electronic means.
- 4.19 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 4.20 A general notice may be given to the general manager in writing by a councillor to the effect that the councillor or the councillor's spouse, de facto partner or relative, is:
 - a) a member of, or in the employment of, a specified company or other body, or
 - b) a partner of, or in the employment of, a specified person.

Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the councillor's 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.

- 4.21 A councillor 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 has an interest in the matter of a kind referred to in clause 4.6.
- 4.22 A person does not breach clauses 4.16 or 4.17 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.
- 4.23 Despite clause 4.17, 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.
- 4.24 Clause 4.17 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
 - 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
 - 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 4.25 in relation to the interest before the commencement of the meeting.
- 4.25 A special disclosure of a pecuniary interest made for the purposes of clause 4.24 c) must:
 - a) be in the form set out in schedule 3 of this code and contain the information required by that form, and

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- 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.
- 4.26 The Minister for Local Government may, conditionally or unconditionally, allow a councillor 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.
- 4.27 A councillor 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 4.26, must still disclose the interest they have in the matter in accordance with clause 4.16.

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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.
- 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

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- 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:
 - 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 4.16 and 4.17.
- 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 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.

Political donations

- 5.13 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.
- 5.14 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 4.16 and 4.17. A disclosure made under this clause must be recorded in the minutes of the meeting.

- 5.15 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*.

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- 5.16 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.
- 5.17 Despite clause 5.14, 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

- 5.18 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
 - 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.
- 5.19 The Minister for Local Government may, conditionally or unconditionally, allow a councillor 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.
- 5.20 Where the Minister exempts a councillor from complying with a requirement under this Part under clause 5.19, the councillor must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

Personal dealings with council

5.21 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.

Code of Conduct for Councillors Page 17 of 42 Date printed: 9 September 2020 5.22 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.

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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
 - 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.

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- 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 the general manager in writing. The recipient 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.

Additional clause added by Council

6(i) Where you are offered a gift or benefit and refuse to accept or receive it, you must complete a Gifts and Benefits Declaration Form if you believe it was offered with a suspected improper motive.

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.

Code of Conduct for Councillors Page 20 of 42 Date printed: 9 September 2020 <u>"Cash-like gifts"</u>

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.

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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
 - 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:

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- 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
- 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
- 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
- councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
- 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) 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.

Additional clause added by council

- 7(i) By way of further addendum to clause 7.6, you must not engage in the following inappropriate interaction:
- I) councillors and administrators approaching members of regional 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 has a right to be heard by the panel at the meeting

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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) only access council information needed for council business
 - b) not use that council information for private purposes

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- 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 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 unless this use is lawfully authorised and proper payment is made where appropriate.
- 8.14 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.
- 8.15 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 8.16 You must not use council resources (including council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property

Code of Conduct for Councillors Page 25 of 42 Date printed: 9 September 2020 or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.

- 8.17 You must not use the council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material:
 - a) for the purpose of assisting your election campaign or the election campaign of others, or
 - b) for other non-official purposes.
- 8.18 You must not convert any property of the council to your own use unless properly authorised.

Internet access

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

Additional clause added by Council

Use of social media

- 8(i) You must not use social media to post or share comments, photos, videos, electronic recordings or other information that:
 - a) is offensive, humiliating, threatening or intimidating to other council officials or those that deal with the council
 - b) contains content about or concerning the council that is false, misleading or deceptive
 - c) divulges confidential council information
 - d) breaches the privacy of other council officials or those that deal with council
 - e) contains allegations of suspected breaches of this code or information about the consideration of a matter under the Procedures, or
 - f) could be perceived to be an official comment on behalf of the council where you have not been authorised to make such comment.

This Part only applies to your use of social media in an official capacity or in connection with your role as a council official. The Part does not apply to personal use of social media that is not connected with your role as a council official.

- 8(i) You must comply with the Council's code of conduct when using social media in an official capacity or in connection with your role as a council official.
- 8(ii) You must not use social media to post or share comments, photos, videos, electronic recordings or other information that:
 - a) is defamatory, offensive, humiliating, threatening or intimidating to other council officials or members of the public
 - b) contains profane language or is sexual in nature
 - <u>c)</u> constitutes harassment and/or bullying within the meaning of the *Model Code of Conduct for* Local Councils in NSW, or is unlawfully discriminatory
 - <u>d)</u> is contrary to your duties under the Work Health and Safety Act 2011 and your responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety
 - e) contains content about the Council, council officials or members of the public that is misleading or deceptive.

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f) divulges confidential Council information

- g) breaches the privacy of other council officials or members of the public
- <u>h)</u> contains allegations of suspected breaches of the Council's code of conduct or information about the consideration of a matter under the Procedures for the Administration of the Code of <u>Conduct</u>
- i) could be perceived to be an official comment on behalf of the Council where you have not been authorised to make such comment
- j) commits the Council to any action
- k) violates an order made by a court
- I) breaches copyright
- m) advertises, endorses or solicits commercial products or business
- <u>n) constitutes spam</u>
- o) is in breach of the rules of the social media platform

8(iii) You must:

- a) attribute work to the original author, creator or source when uploading or linking to content produced by a third party
- b) obtain written permission from a minor's parent or legal guardian before uploading content in which the minor can be identified
- 8(iv) You must exercise caution when sharing, liking, retweeting content as this can be regarded as an endorsement and/or publication of the content.
- 8(v) You must not incite or encourage other persons to act in a way that is contrary to the requirements of this Part.
- 8(vi) You must uphold and accurately represent the policies and decisions of the Council's governing body but may explain why you voted on a matter in the way you did (see section 232(1)(f) of the Local Government Act 1993).

Council record keeping

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

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Councillor access to council buildings

- 8.24 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.
- 8.25 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.
- 8.26 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.

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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
 - 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.

Code of Conduct for Councillors Page 29 of 42 Date printed: 9 September 2020 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 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.

Additional clause added by Council

Support for council officials

9(i) A council official who honestly and faithfully observes the requirements of this Code and any relevant law can expect the publicly expressed support of council and their colleagues against unfair allegations of dishonesty or partiality of their public or professional duties.

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SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.9

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 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.

Code of Conduct for Councillors Page 31 of 42 Date printed: 9 September 2020 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 4.9 a), the date on which a person became a councillor
- b) in the case of a return made under clause 4.9 b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.9 c), the date on which the councillor 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 factor 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.
- References to interests in real property: A reference in this schedule or in schedule 2 to real property in which a councillor has an interest includes a reference to any real property situated in Australia in which the councillor 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 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.

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Part 2: Pecuniary interests to be disclosed in returns

Real property

- 5. A person making a return under clause 4.9 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:
 - 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.
- 8. For the purposes of clause 5 of this schedule, "interest" includes an option to purchase.

<u>Gifts</u>

- 9. A person making a return under clause 4.9 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.
- 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 4.9 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.

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- 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.
- 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 4.9 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
 - 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.

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

- 19. A person making a return under clause 4.9 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:

Code of Conduct for Councillors Page 34 of 42 Date printed: 9 September 2020 *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 4.9 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.

Dispositions of real property

- 23. A person making a return under clause 4.9 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 4.9 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.
- A disposition of real property need not be disclosed if it was made prior to a person becoming a councillor.

Sources of income

- 26. A person making a return under clause 4.9 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:
 - 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

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- 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 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.

<u>Debts</u>

- 31. A person making a return under clause 4.9 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 4.9 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:
 - 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:
 - 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.

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.

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SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 4.9

'Disclosures by councillors' 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*.
- 2. If this is the first return you have been required to lodge with the general manager after becoming a councillor, 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.
- 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 (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 4.9 of the 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 4.11 of the 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 4.9 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,

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Disclosure of pecuniary interests and other matters by [full name of councillor]

as at [return date]

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

[councillor'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	Name under which
	description of office held (if applicable)	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	Dates on which travel was undertaken	Name of States,
made any financial or other contribution		Territories of the
to any travel undertaken by me at any		Commonwealth and
time since 30 June		overseas countries in
		which travel was
		undertaken

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E. Interests and positions in corporations			
Name and address of each corporation	Nature of intere	st (if Description of	Description of
in which I had an interest or held a	any)	position (if any)	principal objects (if
position at the return date/at any time		any) of corporation	
since 30 June			(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	Description of position	
business association in which I held any position (whether		
remunerated or not) at the return date/at any time since		
30 June		

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

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SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST SUBMITTED UNDER CLAUSE 4.25

- 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 4.24 c) of the Code of Conduct for Councillors (the 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 Code of Conduct) has in that person's principal place of residence.

Clause 4.3 of the 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 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.

Code of Conduct for Councillors Page 40 of 42 Date printed: 9 September 2020 Special disclosure of pecuniary interests by [full name of councillor]

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

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

to be held on the day of 20.

Pecuniary interest	
Address of the affected principal place of	
residence of the councillor or an associated	
person, company or body (the identified land)	
Relationship of identified land to the councillor	The councillor has an interest in the land (e.g. is
[Tick or cross one box.]	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 interest ¹	·
Nature of the land that is subject to a change in	The identified land.
zone/planning control by the proposed LEP (the	Land that adjoins or is adjacent to or is in proximity
subject land) ²	to the identified land.
[Tick or cross one box]	
Current zone/planning control	
[Insert name of current planning instrument and	
identify relevant zone/planning control applying	
to the subject land]	

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¹ Clause 4.1 of this Code of Conduct for Councillors (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 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 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 neguriery interact is to be deale	red reprint the above box and fill in far each.

[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]

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HORNSBY

POLICY REGISTER

	CODE OF CONDUCT FOR COUNCIL COMMITTEE MEMBERS, DELEGATES OF COUNCIL AND COUNCIL ADVISERS	
FOLDER NUMBER:	F2007/00307	
POLICY OWNER / DIVISION:	Office of the General Manager	
POLICY OWNER / BRANCH:	Risk and Audit	
FUNCTION:	Governance	
RELEVANT LEGISLATION:	Section 440 Local Government Act 1993	
POLICY ADOPTION/AMENDMENT DATE:	9 September 2020 REPORT NUMBER: GM24/20	
REVIEW YEAR:	2021	
Amendment History:	23 March, 2005 (Report GM05/05) 14 September 2005 (Report GM12/05) 9 May 2007 (Report GM07/07) 9 July 2008 (Report GM09/08) 12 November 2008 (Report GM14/08) 20 April 2011 (Report CC10/11) 15 June 2011 (Report GM15/11)) 20 February 2013 (Report GM1/13) 17 April 2013 (Report GM2/13) 8 April 2015 (Report GM2/13) 8 April 2015 (Report CS6/15) 10 February 2016 (Report GM1/16) 8 August 2018 (Report GM3/19)	
	Procedures for the Administration of the Code of Conduct	

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PART 1 INTRODUCTION

This code of conduct applies to council committee members and delegates of council who are not councillors or staff of the council. It also applies to advisers of council for the purposes of clause 4.12. It is based on the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct"), which has been prescribed under the *Local Government (General) Regulation 2005* (the "Regulation).

Section 440 of the *Local Government Act 1993* ("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).

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.

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 council committee member or delegate of the council to comply with a council's code of conduct may give rise to disciplinary action.

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PART 2 DEFINITIONS

In this code the following terms have the following meanings:

committee	see the definition of "council committee"
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures.
council	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 4.12, 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
conduct	includes acts and omissions
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 4000 of the LGA
LGA	Local Government Act 1993

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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 Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
the Regulation	the Local Government (General) Regulation 2005
wholly advisory committee	a council committee that the council has not delegated any functions to

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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:

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- 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

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Obligations in relation to meetings

- 3.15 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.
- 3.16 You must not engage in bullying behaviour (as defined under this Part) towards the chair, other council officials or any members of the public present during council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).
- 3.17 You must not engage in conduct that disrupts council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.

Additional clauses added by Council

- 3(i) That in respect of reporting the formal position of Council to the media, and a spokesperson speaking on behalf of the Council to the media, the following will apply:
 - The Media Coordinator, Communications & Engagement Manager and Manager Strategy & Place shall be the initial point of contact to the media and are to be notified of all enquiries from the media;
 - b) The Mayor, General Manager, Divisional Managers, Media Coordinator, Communications & Engagement Manager and Manager Strategy & Place are the only persons authorised to respond to enquiries from the media;
 - Responses to the media are to be restricted to the dissemination of factual information relevant to the person's area of responsibility, and are not permitted to be of a subjective, emotive or partisan nature;
 - All press releases and media statements are to be signed off by the relevant Divisional Manager or General Manager, following consultation with the Mayor or Mayor's delegate.
- 3(ii) While it is recognised that council committee members, delegates of council and council advisers, as members of the community, may have a right to make public comment and enter into public debate on political and social issues, care is to be taken not to convey the impression that such comment is official comment made in your capacity as a council committee member, delegate of council or council adviser.

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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

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- 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 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
- an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a council committee member
- 4.7 For the purposes of clause 4.6, "relative" has the same meaning as in clause 4.4, but includes your spouse or de facto partner.

Additional clauses added by Council

- 4(i) 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 pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - (b) if the pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest by complying with clause 4.12 or 4.14.
- 4(ii) In respect of any decision taken in managing a pecuniary conflict of interest a permanent file note of the decision and course of action to be followed must be retained in Council's Electronic Document Records Management System and all other affected council officials notified of the arrangement.

What disclosures must be made by a designated person?

4.8 Designated persons include:

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- a person who is 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 delegate and the person's private interest
- b) 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 clause 4.15, 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 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 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.

What disclosures must be made by council advisers?

- 4.12 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.
- 4.13 A person does not breach clause 4.12 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?

4.14 A council committee member must disclose pecuniary interests in accordance with clause 4.22 and comply with clause 4.23.

Note: A council committee member identified by council as a "designated person" for the purposes of clause 4.8 b) must also prepare and submit written returns of interests in accordance with clause 4.15.

Disclosure of interests in written returns

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

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- c) the designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs a) or
 b).
- 4.16 A person need not make and lodge a return under clause 4.15, paragraphs a) and b) if:
 - a) they made and lodged a return under that clause in the preceding 3 months, or
 - b) they have ceased to be a designated person in the preceding 3 months.
- 4.17 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.
- 4.18 The general manager must keep a register of returns required to be made and lodged with the general manager.
- 4.19 Returns required to be lodged with the general manager under clause 4.15 a) and b) must be tabled at the first meeting of the council after the last day the return is required to be lodged.
- 4.20 Returns required to be lodged with the general manager under clause 4.15 c) must be tabled at the next council meeting after the return is lodged.
- 4.21 Information contained in returns made and lodged under clause 4.15 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

Disclosure of pecuniary interests at meetings

- 4.22 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 committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.23 The council committee member must not be present at, or in sight of, the meeting of the committee:
 - a) at any time during which the matter is being considered or discussed by the committee, or
 - b) at any time during which the committee is voting on any question in relation to the matter.
- 4.24 A disclosure made at a meeting of a council committee must be recorded in the minutes of the meeting.
- 4.25 A general notice may be given to the general manager in writing by a council committee member to the effect that the council committee member, or the council committee member's spouse, de facto partner or relative, is:
 - a) a member of, or in the employment of, a specified company or other body, or
 - b) a partner of, or in the employment of, a specified person.

Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council committee after the date of the notice.

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- 4.26 A council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.27 A person does not breach clauses 4.22 or 4.23 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.
- 4.28 The Minister for Local Government may, conditionally or unconditionally, allow 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 committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion that it is in the interests of the electors for the area to do so.
- 4.29 A council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.28, must still disclose the interest they have in the matter in accordance with clause 4.22.

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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.
- 5.7 If a disclosure is made at a committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 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.

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- 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:
 - by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.22 and 4.23.
- 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 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.
- 5.13 The Minister for Local Government may, conditionally or unconditionally, allow a council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion that it is in the interests of the electors for the area to do so.
- 5.14 Where the Minister exempts a committee member from complying with a requirement under this Part under clause 5.13, the committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

Personal dealings with council

5.15 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

Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers Page 15 of 34 Date printed: 9 September 2020 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.

5.16 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.

ATTACHMENT 1 - ITEM

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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
 - 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
 - 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.

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- 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 the general manager in writing. The 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.

Additional clause added by Council

6(i) Where you are offered a gift or benefit and refuse to accept or receive it, you must complete a Gifts and Benefits Declaration Form if you believe it was offered with a suspected improper motive.

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.

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<u>"Cash-like gifts"</u>

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.
- 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.

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PART 7 ACCESS TO INFORMATION AND COUNCIL RESOURCES

Use of certain council information

- 7.1 In regard to information obtained in your capacity as a council official, you must:
 - a) only access council information needed for council business
 - b) not use that council information for private purposes
 - c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your position with council
 - 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

- 7.2 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.
- 7.3 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

- 7.4 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

- 7.5 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes unless this use is lawfully authorised and proper payment is made where appropriate.
- 7.6 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.

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- 7.7 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.
- 7.8 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.
- 7.9 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.
- 7.10 You must not convert any property of the council to your own use unless properly authorised.

Internet access

7.11 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.

Additional clause added by Council

Use of social media

- 7(i) You must not use social media to post or share comments, photos, videos, electronic recordings or other information that:
 - a) is offensive, humiliating, threatening or intimidating to other council officials or those that deal with the council
 - b) contains content about or concerning the council that is false, misleading or deceptive
 - c) divulges confidential council information
 - d) breaches the privacy of other council officials or those that deal with council
 - e) contains allegations of suspected breaches of this code or information about the consideration of a matter under the Procedures, or
 - f) could be perceived to be an official comment on behalf of the council where you have not been authorised to make such comment.

This Part only applies to your use of social media in an official capacity or in connection with your role as a council official. The Part does not apply to personal use of social media that is not connected with your role as a council official.

- 7(i) You must comply with the Council's code of conduct when using social media in an official capacity or in connection with your role as a council official.
- 7(ii) You must not use social media to post or share comments, photos, videos, electronic recordings or other information that:
 - a) is defamatory, offensive, humiliating, threatening or intimidating to other council officials or members of the public
 - b) contains profane language or is sexual in nature

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- c) constitutes harassment and/or bullying within the meaning of the Model Code of Conduct for Local Councils in NSW, or is unlawfully discriminatory
- <u>d)</u> is contrary to your duties under the Work Health and Safety Act 2011 and your responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety
- e) contains content about the Council, council officials or members of the public that is misleading or deceptive.
- f) divulges confidential Council information
- g) breaches the privacy of other council officials or members of the public
- <u>h)</u> contains allegations of suspected breaches of the Council's code of conduct or information about the consideration of a matter under the Procedures for the Administration of the Code of <u>Conduct</u>
- i) could be perceived to be an official comment on behalf of the Council where you have not been authorised to make such comment
- j) commits the Council to any action
- k) violates an order made by a court
- I) breaches copyright
- m) advertises, endorses or solicits commercial products or business
- n) constitutes spam
- o) is in breach of the rules of the social media platform

7(iii) You must:

- a) attribute work to the original author, creator or source when uploading or linking to content produced by a third party
- b) obtain written permission from a minor's parent or legal guardian before uploading content in which the minor can be identified
- 7(iv) You must exercise caution when sharing, liking, retweeting content as this can be regarded as an endorsement and/or publication of the content.
- 7(v) You must not incite or encourage other persons to act in a way that is contrary to the requirements of this Part.

Council record keeping

- 7.12 You must comply with the requirements of the *State Records Act 1998* and the council's records management policy.
- 7.13 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.
- 7.14 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.

Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers Page 22 of 34 Date printed: 9 September 2020 7.15 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*.

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PART 8 MAINTAINING THE INTEGRITY OF THIS CODE

Complaints made for an improper purpose

- 8.1 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.
- 8.2 For the purposes of clause 8.1, 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
 - 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

- 8.3 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.
- 8.4 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.
- 8.5 For the purposes of clauses 8.3 and 8.4, 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

- 8.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 8.7 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.

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

8.8 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.

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- 8.9 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 8.10 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.
- 8.11 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.
- 8.12 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*.

Additional clause added by Council

Support for council officials

8(i) A council official who honestly and faithfully observes the requirements of this Code and any relevant law can expect the publicly expressed support of council and their colleagues against unfair allegations of dishonestly or partiality of their public or professional duties.

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ATTACHMENT

SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.15

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.

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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 4.15 a), the date on which a person became a councillor or designated person
- b) in the case of a return made under clause 4.15 b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.15 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 factor 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

- 1. 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.
- 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.
- 3. 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.

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Part 2: Pecuniary interests to be disclosed in returns

Real property

- 4. A person making a return under clause 4.15 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
 - 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.
- 5. 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.
- 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.
- 7. For the purposes of clause 5 of this schedule, "interest" includes an option to purchase.

<u>Gifts</u>

- 8. A person making a return under clause 4.15 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.
- 9. 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
 - subject to paragraph (a), it was received prior to the person becoming a councillor or designated person.
- 10. 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

- 11. A person making a return under clause 4.15 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.

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- 12. 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.
- 13. 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

- 14. A person making a return under clause 4.15 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
 - a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
- 15. 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.
- 16. 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.
- 17. 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

- 18. A person making a return under clause 4.15 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.
- 19. For the purposes of clause 19 of this schedule:

Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers Page 29 of 34 Date printed: 9 September 2020 *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

- 20. A person making a return under clause 4.15 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.
- 21. 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

- 22. A person making a return under clause 4.15 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.
- 23. A person making a return under clause 4.15 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.
- A disposition of real property need not be disclosed if it was made prior to a person becoming a designated person.

Sources of income

- 25. A person making a return under clause 4.15 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.
- 26. 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

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- 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.
- 27. 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.
- 28. 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.

<u>Debts</u>

- 29. A person making a return under clause 4.15 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.
- 30. A liability to pay a debt must be disclosed by a person in a return made under clause 4.15 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.
- 31. 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:
 - 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:
 - 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
 - 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 designated person.

Discretionary disclosures

32. 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.

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SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 4.15

'Disclosures by 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*.
- 2. If this is the first return you have been required to lodge with the general manager after becoming a 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 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 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 4.15 of the 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 4.18 of the 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 4.15 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,

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

as at [return date]

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

[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	Name under which
	description of office held (if applicable)	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	Dates on which travel was undertaken	Name of States,
made any financial or other contribution		Territories of the
to any travel undertaken by me at any		Commonwealth and
time since 30 June		overseas countries in
		which travel was
		undertaken

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E. Interests and positions in corporation	s		
Name and address of each corporation	Nature of interest (if Description of	Description of
in which I had an interest or held a	any)	position (if any)	principal objects (if
position at the return date/at any time			any) of corporation
since 30 June			(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	Description of position
business association in which I held any position (whether	
remunerated or not) at the retum date/at any time since 30	
June	

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

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POLICY REGISTER

	CODE OF CONDUCT FOR COUNCIL CONTRACTORS
FOLDER NUMBER:	F2007/00307
POLICY OWNER / DIVISION:	Office of the General Manager
POLICY OWNER / BRANCH:	Risk and Audit
FUNCTION:	Governance
RELEVANT LEGISLATION:	Section 440 Local Government Act 1993
POLICY ADOPTION/AMENDMENT DATE:	9 September 2020 REPORT NUMBER : GM24/20
REVIEW YEAR:	2021
AMENDMENT HISTORY:	10 April 2019 (Report GM3/19)
RELATED POLICIES:	Procedures for the Administration of the Code of Conduct

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ATTACHMENT 1 - ITEM 1

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PART 1 INTRODUCTION

This code of conduct applies to contractors (including their staff and any sub-contractors) engaged by council to undertake work and deliver services for the council. It is based on the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct"), which has been prescribed under the *Local Government (General) Regulation 2005* (the "Regulation).

Section 440 of the *Local Government Act 1993* ("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).

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.

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 contractor of the council to comply with a council's code of conduct could jeopardise their working relationship with council and may result in adverse action being taken against them.

ATTACHMENT 1 - ITEM 1

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PART 2 DEFINITIONS

In this code the following terms have the following meanings:

contractor	a person or firm that undertakes a contract to provide materials or labour to perform a service or do a job
committee	see the definition of "council committee"
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures.
council	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 4.12, 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
conduct	includes acts and omissions
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 4000 of the LGA
LGA	Local Government Act 1993
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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 Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
the Regulation	the Local Government (General) Regulation 2005
wholly advisory committee	a council committee that the council has not delegated any functions to

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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:

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- 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

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Additional clauses added by Council

Public comment

- 3(i) That in respect of reporting the formal position of Council to the media, and a spokesperson speaking on behalf of the Council to the media, the following will apply:
 - The Media Coordinator, Communications & Engagement Manager and Manager Strategy & Place shall be the initial point of contact to the media and are to be notified of all enquiries from the media;
 - b) The Mayor, General Manager, Divisional Managers, Media Coordinator, Communications & Engagement Manager and Manager Strategy & Place are the only persons authorised to respond to enquiries from the media;
 - Responses to the media are to be restricted to the dissemination of factual information relevant to the person's area of responsibility, and are not permitted to be of a subjective, emotive or partisan nature;
 - All press releases and media statements are to be signed off by the relevant Divisional Manager or General Manager, following consultation with the Mayor or Mayor's delegate.

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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) vour 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

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- e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
- f) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
- g) an interest you have arising from the proposed making by 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
- h) 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
- i) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
- 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.

Additional clause added by Council

- 4(i) 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 pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - (b) if the pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest by complying with clause 4.12 or 4.14.

What disclosures must be made by a designated person?

- 4.8 Designated persons include:
 - a person who is 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 delegate and the person's private interest.
 - b) 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.

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- 4.9 A designated person:
 - a) must prepare and submit written returns of interests in accordance with clause 4.13, 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 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 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.

What disclosures must be made by a council contractor?

4.12 A council contractor must disclose pecuniary interests in accordance with clause 4.13 and comply with clause 4.14.

Note: A contractor identified by council as a "designated person" for the purposes of clause 4.8 b) must also prepare and submit written returns of interests in accordance with clause 4.13.

Disclosure of interests in written returns

- 4.13 A designated person must make and lodge with the general manager a return in the form set out in schedule 2 to this code, disclosing the designated person's interests as specified in schedule 1 to this code within 3 months after.
 - a) becoming a designated person, and
 - b) 30 June of each year, and
 - c) the designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs a) or b).
- 4.14 A person need not make and lodge a return under clause 4.13, paragraphs a) and b) if.
 - a) they made and lodged a return under that clause in the preceding 3 months, or
 - b) they have ceased to be a designated person in the preceding 3 months.
- 4.15 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.
- 4.16 The general manager must keep a register of returns required to be made and lodged with the general manager.
- 4.17 Returns required to be lodged with the general manager under clause 4.13 a) and b) must be tabled at the first meeting of the council after the last day the return is required to be lodged.
- 4.18 Returns required to be lodged with the general manager under clause 4.13 c) must be tabled at the next council meeting after the return is lodged.

Code of Conduct for Council Contractors Page 11 of 33 Date printed: 9 September 2020 4.19 Information contained in returns made and lodged under clause 4.13 is to be made publicly available in accordance with the requirements of the *Government Information (Public Access) Act 2009*, the *Government Information (Public Access) Regulation 2009* and any guidelines issued by the Information Commissioner.

Disclosure of pecuniary interests at meetings

- 4.20 A council contractor who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.21 The council contractor must not be present at, or in sight of, the meeting of the council:
 - a) at any time during which the matter is being considered or discussed by the council, or
 - b) at any time during which the council is voting on any question in relation to the matter.
- 4.22 A disclosure made at a meeting of a council must be recorded in the minutes of the meeting.
- 4.23 A general notice may be given to the general manager in writing by a council contractor to the effect that the council contractor or the council contractor's spouse, de facto partner or relative, is:
 - a) a member of, or in the employment of, a specified company or other body, or
 - b) a partner of, or in the employment of, a specified person.

Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the council contractor's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council after the date of the notice.

- 4.24 A council contractor is not prevented from being present at and taking part in a meeting at which a matter is being considered, merely because the council contractor has an interest in the matter of a kind referred to in clause 4.6.
- 4.25 A person does not breach clauses 4.20 or 4.21 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.

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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 contractor 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 contractor 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.
- 5.7 If a disclosure is made at a council 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 relationship between a council contractor 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 contractor's extended family that the council contractor 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.

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- c) an affiliation between the council contractor 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 contractor'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:
 - 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 meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.22 and 4.23.
- 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 council contractor, the decision on which option should be taken to manage a nonpecuniary conflict of interest must be made in consultation with and at the direction of the council officer supervising your contract.

Personal dealings with council

- 5.13 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.
- 5.14 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.

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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 contractor (associated with their role with Council) 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 contractor at a work-related event or function for the purposes of performing their official council 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
 - 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
 - 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.

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- 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 the general manager in writing. The 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.

Additional clause added by Council

6(i) Where you are offered a gift or benefit and refuse to accept or receive it, you must complete a Gifts and Benefits Declaration Form if you believe it was offered with a suspected improper motive.

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.

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<u>"Cash-like gifts"</u>

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.
- 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.

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PART 7 ACCESS TO INFORMATION AND COUNCIL RESOURCES

Use of certain council information

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

Use and security of confidential information

- 7.2 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.
- 7.3 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

- 7.4 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

- 7.5 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes unless this use is lawfully authorised and proper payment is made where appropriate.
- 7.6 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.

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- 7.7 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.
- 7.8 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.
- 7.9 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.
- 7.10 You must not convert any property of the council to your own use unless properly authorised.

Internet access and use of social media

7.11 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.

Additional clause added by Council

Use of social media

- 7(i) You must not use social media to post or share comments, photos, videos, electronic recordings or other information that:
 - a) is offensive, humiliating, threatening or intimidating to council officials or those that deal with the council
 - b) contains content about the council that is misleading or deceptive
 - c) divulges confidential council information
 - d) breaches the privacy of other council officials or those that deal with council
 - e) contains allegations of suspected breaches of this code or information about the consideration of a matter under the Procedures, or
 - f) could be perceived to be an official comment on behalf of the council where you have not been authorised to make such comment.

This Part only applies to your use of social media in an official capacity or in connection with your role as a council official. The Part does not apply to personal use of social media that is not connected with your role as a council official.

- 7(i)
 You must comply with the Council's code of conduct when using social media in an official capacity

 or in connection with your role as a council official.
- 7(ii) You must not use social media to post or share comments, photos, videos, electronic recordings or other information that:
 - a) is defamatory, offensive, humiliating, threatening or intimidating to other council officials or members of the public
 - b) contains profane language or is sexual in nature

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- c) constitutes harassment and/or bullying within the meaning of the *Model Code of Conduct for Local* <u>Councils in NSW</u>, or is unlawfully discriminatory
- <u>d)</u> is contrary to your duties under the Work Health and Safety Act 2011 and your responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety
- e) contains content about the Council, council officials or members of the public that is misleading or deceptive.
- f) divulges confidential Council information
- g) breaches the privacy of other council officials or members of the public
- h) contains allegations of suspected breaches of the Council's code of conduct or information about the consideration of a matter under the *Procedures for the Administration of the Code of Conduct*
- i) could be perceived to be an official comment on behalf of the Council where you have not been authorised to make such comment
- j) commits the Council to any action
- k) violates an order made by a court
- I) breaches copyright
- m) advertises, endorses or solicits commercial products or business
- <u>n) constitutes spam</u>
- o) is in breach of the rules of the social media platform

7(iii) You must:

- a) attribute work to the original author, creator or source when uploading or linking to content produced by a third party
- b) obtain written permission from a minor's parent or legal guardian before uploading content in which the minor can be identified
- 7(iv) You must exercise caution when sharing, liking, retweeting content as this can be regarded as an endorsement and/or publication of the content.
- 7(v) You must not incite or encourage other persons to act in a way that is contrary to the requirements of this Part.

Council record keeping

- 7.12 You must comply with the requirements of the *State Records Act* 1998 and the council's records management policy.
- 7.13 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.
- 7.14 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.

Code of Conduct for Council Contractors Page 20 of 33 Date printed: 9 September 2020 7.15 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*.

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PART 8 MAINTAINING THE INTEGRITY OF THIS CODE

Complaints made for an improper purpose

- 8.1 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.
- 8.2 For the purposes of clause 8.1, 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
 - 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

- 8.3 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.
- 8.4 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.
- 8.5 For the purposes of clauses 8.3 and 8.4, 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

- 8.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 8.7 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.

Code of Conduct for Council Contractors Page 22 of 33 Date printed: 9 September 2020 Disclosure of information about the consideration of a matter under the Procedures

- 8.8 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.
- 8.9 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 8.10 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.
- 8.11 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.
- 8.12 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*.

Additional clause added by Council

Support for council contractors

8(i) A council contractor who honestly and faithfully observes the requirements of this Code and any relevant law can expect the publicly expressed support of council and their colleagues, in relation to their council role, against unfair allegations of dishonesty or partiality of their public or professional duties.

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SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.13

Part 1: Preliminary

<u>Definitions</u>

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.

Code of Conduct for Council Contractors Page 24 of 33 Date printed: 9 September 2020 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 4.13 a), the date on which a person became a councillor or designated person
- b) in the case of a return made under clause 4.13 b), 30 June of the year in which the return is made
- c) in the case of a return made under clause 4.13 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 factor 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.

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Part 2: Pecuniary interests to be disclosed in returns

Real property

- 5. A person making a return under clause 4.13 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
 - 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.

<u>Gifts</u>

- 9. A person making a return under clause 4.13 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
 - 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 4.13 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

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- 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 4.13 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
 - 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.

Code of Conduct for Council Contractors Page 27 of 33 Date printed: 9 September 2020 Interests as a property developer or a close associate of a property developer

- 19. A person making a return under clause 4.13 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 4.13 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 4.13 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 4.13 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.
- A disposition of real property need not be disclosed if it was made prior to a person becoming a designated person.

Sources of income

- 26. A person making a return under clause 4.13 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.

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- 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:
 - in relation to income from an occupation of the person: a)
 - (i) a description of the occupation, and
 - if the person is employed or the holder of an office, the name and address of their (ii) 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
 - in relation to any other income, a description sufficient to identify the person from whom, or c) 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.

Debts

- 30. A person making a return under clause 4.13 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:
 - on the return date and a)
 - b) at any time in the period since 30 June of the previous financial year.
- 31. A liability to pay a debt must be disclosed by a person in a return made under clause 4.13 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.
- 32. 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:
 - the debt was one of two or more debts that the person was liable to pay to one person i) 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
 - in the case of a debt arising from a loan of money the person was liable to pay the debt to an c) 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 in the case of a debt arising from the supply of goods or services:
 - d)
 - 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

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- 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 designated person.

Discretionary disclosures

33. 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.

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SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 4.13

'Disclosures by 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*.
- 2. If this is the first return you have been required to lodge with the general manager after becoming a 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 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 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 4.13 of the 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 4.15 of the 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 4.13 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.

Code of Conduct for Council Contractors Page 31 of 33 Date printed: 9 September 2020 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 designated person]

as at [return date]

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

[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	Name under which
	description of office held (if applicable)	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 addres

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

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			which travel was undertaken
E. Interests and positions in corporation	S		
Name and address of each corporation	Nature of interest	Description of	Description of
in which I had an interest or held a	(if any)	position (if any)	principal objects (if
position at the return date/at any time			any) of corporation
since 30 June			(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
 Description of position

 business association in which I held any position (whether

 remunerated or not) at the return date/at any time since 30

 June

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

Σ Щ _ ATTACHMENT

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POLICY REGISTER

	CODE OF CONDUCT FOR MEMBERS OF COUNCIL ADVISORY COMMITTEES
FOLDER NUMBER:	F2007/00307
POLICY OWNER / DIVISION:	Office of the General Manager
POLICY OWNER / BRANCH:	Risk and Audit
FUNCTION:	Governance
RELEVANT LEGISLATION:	Section 440 Local Government Act 1993
POLICY ADOPTION/AMENDMENT DATE:	9 September 2020 REPORT NUMBER: GM24/20
REVIEW YEAR:	2021
AMENDMENT HISTORY:	10 April 2019 (Report GM3/19)
RELATED POLICIES:	Procedures for the Administration of the Code of Conduct

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PART 1 INTRODUCTION

This code of conduct applies to advisory committee members of council who are not councillors or staff of the council. It is based on the *Model Code of Conduct for Local Councils in NSW* ("the Model Code of Conduct"), which has been prescribed under the *Local Government (General) Regulation 2005* (the "Regulation).

Section 440 of the *Local Government Act 1993* ("LGA") requires every council (including county councils) and joint organisations to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. A council's or joint organisation's adopted code of conduct may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "council officials" for the purposes of the Model Code of Conduct (eg, contractors and members of wholly advisory committees).

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.

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 council advisory committee member to comply with a council's code of conduct could jeopardise their committee role with council and may result in adverse action being taken against them.

ATTACHMENT 1 - ITEM 1

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PART 2 DEFINITIONS

In this code the following terms have the following meanings:

committee	see the definition of "council committee"
complaint	a code of conduct complaint made for the purposes of clauses 4.1 and 4.2 of the Procedures.
council	includes county councils and joint organisations
council advisory committee	a council committee that the council has not delegated any functions to and the council's audit, risk and improvement committee
council advisory committee member	a person other than a councillor or member of staff of a council who is a member of 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 4.12, 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
conduct	includes acts and omissions
delegate of council	a person (other than a councillor or member of staff of a council) or body, and the individual members of that body, to whom a function of the council is delegated
designated person	a person referred to in clause 4.8
election campaign	includes council, state and federal election campaigns
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 4000 of the LGA
LGA	Local Government Act 1993
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	Office of Local Government
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personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
the Regulation	the Local Government (General) Regulation 2005

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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:

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- 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.

Work health and safety

- 3.11 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.
 - 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
 - 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.

Obligations in relation to meetings

- 3.12 You must comply with rulings by the chair at committee meetings or other proceedings of the council unless a motion dissenting from the ruling is passed.
- 3.13 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 committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).
- 3.14 You must not engage in conduct that disrupts 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.

Additional clauses added by Council

Public comment

- 3(i) That in respect of reporting the formal position of Council to the media, and a spokesperson speaking on behalf of the Council to the media, the following will apply:
 - The Media Coordinator, Communications & Engagement Manager and Manager Strategy & Place shall be the initial point of contact to the media and are to be notified of all enquiries from the media;

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- b) The Mayor, General Manager, Divisional Managers, Media Coordinator, Communications & Engagement Manager and Manager Strategy & Place are the only persons authorised to respond to enquiries from the media;
- Responses to the media are to be restricted to the dissemination of factual information relevant to the person's area of responsibility, and are not permitted to be of a subjective, emotive or partisan nature;
- All press releases and media statements are to be signed off by the relevant Divisional Manager or General Manager, following consultation with the Mayor or Mayor's delegate.

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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

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- 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 advisory 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 advisory 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 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
- an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a council committee member
- 4.7 For the purposes of clause 4.6, "relative" has the same meaning as in clause 4.4, but includes your spouse or de facto partner.

Additional clause added by Council

- 4(i) 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 pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - b) if the pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest by complying with clause 4.9 and 4.10.

What disclosures must be made by a council committee member?

4.8 A council advisory committee member must disclose pecuniary interests in accordance with clause 4.9 and comply with clause 4.10.

Code of Conduct for Members of Council Advisory Committees Page 10 of 21 Date printed: 9 September 2020 Disclosure of pecuniary interests at meetings

- 4.9 A council advisory 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 committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- 4.10 The council advisory committee member must not be present at, or in sight of, the meeting of the committee:
 - a) at any time during which the matter is being considered or discussed by the committee, or
 - b) at any time during which the committee is voting on any question in relation to the matter.
- 4.11 A disclosure made at a meeting of a council advisory committee must be recorded in the minutes of the meeting.
- 4.12 A general notice may be given to the general manager in writing by a council advisory committee member to the effect that the council advisory committee member, or the council committee member's spouse, de facto partner or relative, is:
 - a) a member of, or in the employment of, a specified company or other body, or
 - b) a partner of, or in the employment of, a specified person.

Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the council advisory 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 advisory committee after the date of the notice.

- 4.13 A council advisory committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the council advisory committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.14 A person does not breach clauses 4.9 or 4.10 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.

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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 advisory committee member 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 advisory committee member 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.
- 5.7 If a disclosure is made at a council advisory 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 relationship between a council advisory committee member 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.

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- c) an affiliation between the council advisory committee member 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 advisory committee member'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:
 - by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.9 and 4.10.
- 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 Council advisory 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 advisory committee.

Personal dealings with council

- 5.13 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.
- 5.14 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.

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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 advisory committee member (associated with their role with Council) 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 advisory committee member 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 advisory committee member's 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
 - 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
 - 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.

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- 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 the general manager in writing. The 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.

Additional clause added by Council

6(i) Where you are offered a gift or benefit and refuse to accept or receive it, you must complete a Gifts and Benefits Declaration Form if you believe it was offered with a suspected improper motive.

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.

Code of Conduct for Members of Council Advisory Committees Page 15 of 21 Date printed: 9 September 2020 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.
- 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.

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PART 7 ACCESS TO INFORMATION AND COUNCIL RESOURCES

Use of certain council information

- 7.1 In regard to information obtained in your capacity as a council advisory committee member, you must:
 - a) only access council information needed for council business
 - b) not use that council information for private purposes
 - c) not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your position with council
 - 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

- 7.2 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.
- 7.3 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
 - 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

- 7.4 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

- 7.5 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes unless this use is lawfully authorised and proper payment is made where appropriate.
- 7.6 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.

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- 7.7 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.
- 7.8 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.
- 7.9 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.
- 7.10 You must not convert any property of the council to your own use unless properly authorised.

Internet access and use of social media

7.11 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.

Additional clause added by Council

Use of social media

- 7(i) You must not use social media to post or share comments, photos, videos, electronic recordings or other information that:
 - a) is offensive, humiliating, threatening or intimidating to other council officials or those that deal with the council
 - b) contains content about the council that is misleading or deceptive
 - c) divulges confidential council information
 - d) breaches the privacy of other council officials or those that deal with council
 - e) contains allegations of suspected breaches of this code or information about the consideration of a matter under the Procedures, or
 - f) could be perceived to be an official comment on behalf of the council where you have not been authorised to make such comment.

This Part only applies to your use of social media in an official capacity or in connection with your role as a council official. The Part does not apply to personal use of social media that is not connected with your role as a council official.

- 7(i)
 You must comply with the Council's code of conduct when using social media in an official capacity

 or in connection with your role as a council official.
- 7(ii) You must not use social media to post or share comments, photos, videos, electronic recordings or other information that:
 - a) is defamatory, offensive, humiliating, threatening or intimidating to other council officials or members of the public
 - b) contains profane language or is sexual in nature

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- c) constitutes harassment and/or bullying within the meaning of the *Model Code of Conduct for Local* <u>Councils in NSW</u>, or is unlawfully discriminatory
- d) is contrary to your duties under the Work Health and Safety Act 2011 and your responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety
- e) contains content about the Council, council officials or members of the public that is misleading or deceptive.
- f) divulges confidential Council information
- g) breaches the privacy of other council officials or members of the public
- h) contains allegations of suspected breaches of the Council's code of conduct or information about the consideration of a matter under the *Procedures for the Administration of the Code of Conduct*
- i) could be perceived to be an official comment on behalf of the Council where you have not been authorised to make such comment
- j) commits the Council to any action
- k) violates an order made by a court
- I) breaches copyright
- m) advertises, endorses or solicits commercial products or business
- <u>n) constitutes spam</u>
- o) is in breach of the rules of the social media platform

7(iii) You must:

- a) attribute work to the original author, creator or source when uploading or linking to content produced by a third party
- b) obtain written permission from a minor's parent or legal guardian before uploading content in which the minor can be identified
- 7(iv) You must exercise caution when sharing, liking, retweeting content as this can be regarded as an endorsement and/or publication of the content.
- 7(v) You must not incite or encourage other persons to act in a way that is contrary to the requirements of this Part.

Council record keeping

- 7.12 You must comply with the requirements of the *State Records Act* 1998 and the council's records management policy.
- 7.13 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.
- 7.14 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.
- 7.15 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*.

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PART 8 MAINTAINING THE INTEGRITY OF THIS CODE

Complaints made for an improper purpose

- 8.1 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.
- 8.2 For the purposes of clause 8.1, 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
 - 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
 - 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

- 8.3 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.
- 8.4 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.
- 8.5 For the purposes of clauses 8.3 and 8.4, 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

- 8.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 8.7 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.

Code of Conduct for Members of Council Advisory Committees Page 20 of 21 Date printed: 9 September 2020 Disclosure of information about the consideration of a matter under the Procedures

- 8.8 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.
- 8.9 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 8.10 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.
- 8.11 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.
- 8.12 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*.

Additional clause added by Council

Support for council advisory committee members

8(i) A council advisory committee member who honestly and faithfully observes the requirements of this Code and any relevant law can expect the publicly expressed support of council and their colleagues in relation to their council role, against unfair allegations of dishonesty or partiality of their public or professional duties.

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POLICY REGISTER

	PROCEDURES FOR THE ADMINISTRATION OF THE CODE OF CONDUCT
Folder Number:	F2007/00307
POLICY OWNER / DIVISION:	Office of the General Manager
POLICY OWNER / BRANCH:	Risk and Audit
FUNCTION:	Governance
RELEVANT LEGISLATION:	Sections 440 and 440AA Local Government Act 1993
POLICY ADOPTION/AMENDMENT DATE:	9 September 2020 REPORT NUMBER: GM24/20
REVIEW YEAR:	2021
AMENDMENT HISTORY:	20 February 2013 (GM1/13) 10 April 2019 (GM3/19)
RELATED POLICIES:	Code of Conduct for Staff Code of Conduct for Councillors Code of Conduct for Council Committee Members, Delegates of Council and Council Advisers

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ATTACHMENT 1 - ITEM 1

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PART 1 INTRODUCTION

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

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

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

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

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

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

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

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

PART 2 DEFINITIONS

In these procedures the following terms have the following meanings:

administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
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

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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 Local Government Act 1993
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

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investigator	a conduct reviewer
the Regulation	the Local Government (General) Regulation 2005
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
 - 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
 - a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or

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- 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.

Procedures for the Administration of the Code of Conduct Page 6 of 30 Date printed: 9 September 2020 For the purposes of this section, the complaints coordinator is the Risk and Audit Manager who can be contacted on 9847-6609, and the alternate complaints coordinator is the Manager Governance and Customer Service who can be contacted on 9847-6608.

- 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.

Procedures for the Administration of the Code of Conduct Page 7 of 30 Date printed: 9 September 2020 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 three months of the alleged conduct occurring or within three months of the complainant becoming aware of the alleged conduct.
- 4.5 A complaint made after 3 months may only be accepted if the 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.

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- 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.

Additional clause added by Council

5(i) In exercising their functions under this Part, the general manager or mayor may also seek independent advice from the Office of Local Government or a suitably qualified governance or probity adviser.

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.

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- 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.

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- 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.
 - 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
 - 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.

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- 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.

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- 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

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- 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

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- 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.

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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.

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- 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.
- 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.

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- 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.

Procedures for the Administration of the Code of Conduct Page 18 of 30 Date printed: 9 September 2020 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
 - 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
 - I) the seriousness of the alleged conduct (having regard to the criteria specified in clause 6.23)

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- 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
 - 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

Procedures for the Administration of the Code of Conduct Page 20 of 30 Date printed: 9 September 2020 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.

Written and oral submissions

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

How are investigations to be conducted?

- 7.15 Investigations are to be undertaken without undue delay.
- 7.16 Investigations are to be undertaken in the absence of the public and in confidence.
- 7.17 Investigators must make any such enquiries that may be reasonably necessary to establish the facts of the matter.

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- 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:
 - 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.

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- 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

b)

- 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,
 - 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

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- 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.

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- 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.

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- 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

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- 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.

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- 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. 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.
- 8.19 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.

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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
 - 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

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- 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.

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HORNSBY			POLICY REGISTER
POLICY TITLE:	ELECTIONS - CA REGULATED AN		
Folder Number:	F2007/00307		
POLICY OWNER / DIVISION:	Office of the Genera	al Manager	
POLICY OWNER / BRANCH:	Risk & Audit		
Function:	Elections		
	Communication/Cor	sultation	
Relevant Legislation:	Local Government A	Act 1993	
POLICY ADOPTION/AMENDMENT DATE:	8 August 2018	Report Number:	CS33/18
REVIEW YEAR:	2021		
Amendment History:	17 February 2010 18 July 2012 17 April 2013 8 April 2015	GM3/10 CS8/12 GM2/13 CS6/15	
RELATED POLICIES:	Pre-election Guide f	or Councillors 2021	– Office of Local

POLICY PURPOSE / OBJECTIVES:

To ensure the activities of the Council of the Shire of Hornsby (Council) and those of Councillors who are candidates, are undertaken in a manner that supports a high standard of integrity during local government election periods.

POLICY STATEMENT:

1 - INTRODUCTION

1.1 Objective

I

The primary objective of this Policy is to avoid the Council, the General Manager or any other delegate of the Council (other than the Local Planning Panel or Joint Regional Planning Panel) making major decisions, prior to an ordinary election, that would bind an incoming Council, prevent the use of public resources in ways that are seen as advantageous to, or promoting, the sitting Councillors who are seeking re-election, or

Page 1 of 9 Date printed: 8 August 2018 new candidates, and to ensure that Council's administration acts impartially in relation to candidates for election. This Policy seeks to ensure the community have confidence in the integrity of the performance of Council's

functions and activities in the lead-up to elections and that public resources are used ethically, effectively, efficiently and carefully.

This Policy applies dDuring thea 'Caretaker Regulated Period' being 40 days before election day, this Policy extends to cover:

- (ab) any material that is published by the Council;
- (be) attendance and participation in functions and events;
- (cd) the use of the Council's resources;
- (de) access to Council information; and
- (ef) media services issues.

During the 'Caretaker Period' being 28 days before election day, this Policy extends to cover:

- (a) decisions that are made by the Council, the General Manager or any other delegate of the Council (other than the Local Planning Panel and Joint Regional Planning Panel).;
- 1.2 Application

This Garetaker-Policy has application to Councillors, electoral candidates and employees of the Council.

1.3 Definitions

'Caretaker Period' means the period of time commencing from the date of the close of the rolls (40 days before election day) and ending on the day the election is declared four (4) weeks or 28 days preceding election day.

'Election Day' means the day fixed under the Local Government Act 1993 for the holding of an ordinary election.

'Electoral Material' is as defined in clause 356A of the Local Government (General) Regulation 20052021 and includes a how-to-vote card, poster or advertisement containing electoral matter <u>(whether in a tangible</u> or an electronic form), or anything else containing electoral matter.

'Electoral Matter' is as defined in clause 356A of the Local Government (General) Regulation 20052021, and includes:

(a) any matter that is intended or calculated or likely to affect or is capable of affecting the result of any election held or to be held or that is intended or calculated or likely to influence or is capable of influencing an elector in relation to the casting of his or her vote at any election; or

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(b) the name of a candidate at any election, the name of the party of any such candidate, the name or address of the committee rooms of any such candidate or party, the photograph of any such candidate, and any drawing or printed matter that purports to depict any such candidate or to be a likeness or representation of any such candidate.

'Events and Functions' means gatherings of internal and external stakeholders to discuss, review, acknowledge, communicate, celebrate or promote a program, strategy or issue which is of relevance to the Shire and its stakeholders and may take the form of conferences, workshops, forums, launches, promotional activities and social occasions such as dinners and receptions.

'Major Decision' means:

- (a) Entering into any contract or undertaking involving an expenditure or receipt by the Council of an amount equal to or greater than \$150,000 or 1% of Council's revenue from rates in the preceding financial year (whichever is the larger).
- (b) Determining a controversial development application, except where a failure to make such a determination would give rise to a deemed refusal, or such a deemed refusal arose before the commencement of the Caretaker Period. The term "controversial development application" is defined as one for which at least 25 persons have made submissions by way of an objection.
- (c) Appointing or renewing the appointment of the General Manager or terminating their employment. (This does not include the appointment of an acting or temporary General Manager)
- (d) Decisions relating to the Council entering into a sponsorship arrangement with a total Council contribution value exceeding \$10,000 (excluding GST).
- (e) Irrevocable decisions that will have a significant impact on the Shire of Hornsby or the community.
- (f) Reports requested or initiated by a Councillor, candidate or member of the public that, in the General Manager's opinion, may be perceived within the general community as an electoral issue that reflects upon the Council's decision-making process and has the potential to call into question whether decisions are soundly based and in the best interests of the community.

'Public Consultation' means a process which involves an invitation to individuals, groups or organisations or the community generally to comment on an issue, proposed action or proposed policy.

Regulated Period' means the period that starts when the electoral rolls close 40 days before election day and ends on election day.

1.4 Scheduling Consideration of Major Decisions

So far as is reasonably practicable, the General Manager should avoid scheduling major decisions for consideration during a Caretaker Period, and instead ensure that such decisions are either:

- (a) considered by the Council prior to the Caretaker Period; or
- (b) scheduled for determination by the incoming Council.

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Where extraordinary circumstances prevail, the General Manager may submit a major decision to the Council in accordance with Part 3 of this Ppolicy.	
Routine decisions should proceed as usual. Decisions should be made in the public interest and Council will have regard to all the circumstances including the urgency of the matter and whether there may be financial or legal consequences if a matter is deferred.	
1.5 Decisions Made Prior to a Caretaker Period	
This Policy only applies to actual decisions made during a Caretaker Period, not the announcement of decisions made prior to the Caretaker Period. Whilst announcements of earlier decisions may be made during a Caretaker Period, as far as practicable any such announcements should be made before the Caretaker Period begins.	
2 - IMPLEMENTATION OF REGULATED AND CARETAKER PRACTICES	
2.1 Notice of the Regulated and Caretaker Period	
The General Manager will ensure as far as possible, that all Councillors and staff are aware of this Policy	Formatted: Font: Not Bold
and related practices, at least 30 days prior to the start of the Regulated Period, being 70 days before	Formatted, Fort, Not both
election day,	Formatted: Font: Not Bold
2.2 Commencement of the Regulated Period 40 days before election day	
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The key requirement from the commencement of the Regulated Period is that all "electoral material"	Formatted: Font: (Default) Arial
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3 - EXTRAORDINARY CIRCUMSTANCES REQUIRING EXEMPTION

3.1 Extraordinary Circumstances

Council is entitled to seek the Minister for Local Government's approval if it believes it needs to make a decision covered by points (a) and (b) and (c) in the definition of 'Major Decision' during the Caretaker Period. The General Manager may, where extraordinary circumstances prevail, permit a matter covered by points (cd), (de) and (ef) in the definition of a 'Major Decision' to be submitted to the Council. The General Manager is to have regard to a number of circumstances, including but not limited to:

- (a) whether the decision is 'significant';
- (b) the urgency of the issue;
- (c) the possibility of legal and/or financial repercussions if it is deferred;
- (d) whether the decision is likely to be controversial; and
- (e) the best interests of the Shire of Hornsby.

4 - CARETAKER STATEMENT

- To ensure the Council complies with its commitment to appropriate decision making during the Caretaker Period a Caretaker Statement will be included in every report submitted to the Council for a decision. The Caretaker Statement will specify one of the following:
 - (a) "The recommended decision is not a 'Major Decision' within the context of Council Policy 'Elections -<u>_ Regulated and</u> Caretaker Period'."
 - (b) "The recommended decision is a 'Major Decision' within the context of Council Policy 'Elections <u>Regulated and</u> Caretaker Period' however; an exemption should be made due to extraordinary circumstances (insert the circumstances for making the exemption)".

5 - COUNCIL PUBLICATIONS

5.1 Prohibition on Publishing Electoral Material

Other than as provided for in 5.5 under, Council shall not print, publish or distribute, or cause, permit or authorise others to print, publish or distribute on behalf of the Council any 'electoral material' that contains 'electoral matter' during the Caretaker-Regulated Period.

5.2 Electoral Material Relevant to Prohibition

Without limiting the generality of the definition of 'electoral matter', material will be considered to be intended or likely to affect voting in the election if it contains an express or implicit reference to, or comment on:

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- (a) the election; or
- (b) a candidate in the election; or
- (c) an issue submitted to, or otherwise before, the voters in connection with the election.
- (d) the achievements of the current Councillors.

5.3 Candidate and/or Councillor Publications

Candidates and/or Councillors are permitted to publish campaign material on their own behalf but cannot purport that the material originated from or is authorised by the Council. For example, use of the Shire of Hornsby crest or logo is prohibited as is use of any of Council's photographs or images, which convey an endorsement by the Council.

5.4 Election Announcements

This Ppolicy does not prevent publications, by the Council, which merely announce the holding of the election or relate only to the election process itself.

5.5 Council Publications including Mayoral Columns

Reference to Councillors and or the Mayor in the Council's publications printed, published or distributed during the <u>Caretaker_Regulated</u> Period is not permitted. Any of the Council's publications that are potentially affected by this <u>Ppolicy</u> are to be reviewed by the General Manager to ensure that any circulated, displayed or otherwise publicly available material during the <u>Regulated</u>Caretaker Period does not include content that may be construed as 'electoral matter'.

5.6 Council Website and Online Media

During the <u>Caretaker-Regulated</u> Period the Council's website will not include content, which is precluded by this <u>Ppolicy</u>. Any references to the election will only relate to the election process. Information about Councillors will be restricted to names, contact details, titles, membership of special committees and other bodies to which they have been appointed to by the Council, as would normally appear.

All decisions in relation to content posted on other social media platforms will be assessed in accordance with Council's "Electronic Communication Security Determination".

5.7 Councillor Business Cards

Councillors shall ensure that their allocated business cards are used only for purposes associated with the normal role of a Councillor in servicing their electorate. Councillor Business Cards shall not be used in a manner that could be perceived as an electoral purpose.

6 - PUBLIC CONSULTATION DURING THE CARETAKER PERIOD

6.1 Prohibition

Page 6 of 9 Date printed: 8 August 2018 It is prohibited under this Ppolicy for public consultation to be undertaken during the Caretaker Period (either new consultation or existing) on an issue which is contentious, unless the consultation is a mandatory statutory process or prior approval is given by the Council or General Manager.

7 - ATTENDANCE AND PARTICIPATION AT EVENTS/FUNCTIONS

7.1 Public Events Hosted by External Bodies

Councillors may continue to attend events and functions hosted by external bodies during the Caretaker Regulated Period.

7.2 Council's Organised Civic Events/Functions

Civic events/functions organised by the Council and held during the <u>Caretaker-Regulated</u> Period will be reduced to only those essential to the operation of the Shire, and should not in any way be associated with any issues considered topical and relevant to the election. Only sitting Councillors will be formally acknowledged at such events/functions.

Councillor participation in Community Festivals and events should promote Council as a whole and not be used or be construed to gain advantage in support of an election campaign.

7.3 Addresses by Councillors

Speech notes provided to the Mayor and Deputy Mayor by Council staff are not to include content which could be construed as "electoral matter".

Councillors, who are also candidates, are not permitted to make speeches or addresses other than short welcome speeches at events and functions organised or sponsored by the Council during the Caretaker <u>Regulated</u> Period.

7.4 Delegates to Community and Advisory Groups

Councillors appointed to community groups, advisory groups and other external organisations as representatives of the Council shall not use their attendance at meetings of such groups to either recruit assistance with electoral campaigning or to promote their personal or other candidate's electoral campaigns.

8 - THE USE OF COUNCIL RESOURCES

8.1 Council Resources

Council's Code of Conduct provides that the Council's resources are only to be utilised in the course of official duties and not for private purposes. This includes the use of resources for electoral purposes. Relevant Council resources include:

Council ICT including fixed and mobile phones, computers, social media sites and email addresses

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Intellectual property

- Council stationery including Council letterhead and Council crests
- Council office equipment such as photocopiers and fax machines whether located at a Councillor's residence or provided at the Council Chambers
- Council vehicles
- Council communication devices such as fixed and mobile telephones and computers
- Council facilities such as the Mayor's Room, Councillors Room and refreshment facilities
- Human resources such as secretarial or clerical support

It should be noted that the prohibition on the use of the Council's resources for electoral purposes is not restricted to the Caretaker-Regulated Period and does not only apply to each councillor's election campaign but also to the election campaigns of others, including other candidates-

8.2 Staff Support

The Council's staff must ensure that any participation in political activities outside the service of the council does not interfere with the performance of their official duties. Matters to consider in relation to staff participation in political activities include: not participating in campaigning activities during work time; not using council resources for campaigning purposes; and managing community perceptions arising from council staff participation in councillors' campaigns, not undertake any tasks connected directly or indirectly with an election campaign and should avoid assisting Councillors in ways that could create a perception that they are being used for electoral purposes.

8.3 Expenses incurred by Councillors

Payment or reimbursement of costs relating to Councillors' out-of-pocket expenses incurred during the election-period-should only apply to necessary costs that have been incurred in the performance of normal Council duties not campaigning, and not for expenses that could be perceived as supporting or being connected with a candidate's election campaign.

8.4 General

In any circumstances where the use of the Council's resources might be construed as being related to a candidate's election campaign, advice is to be sought from the General Manager.

8.5 Publicly available property and facilities

A councillor is permitted at any time to use resources, property or facilities of Council that 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.

9 - ACCESS TO COUNCIL INFORMATION AND ASSISTANCE

9.1 Councillor and Candidate Access to Information

During a Caretaker<u>the Regulated</u> Period, Councillors are able to continue, as normal, to access Council information relevant to the performance of the functions of a Councillor.

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However, this access to information should be exercised with caution and limited to matters that the Council is dealing with within the objectives and intent of this Ppolicy. Any Council information so accessed must not be used for election purposes.

All candidates will have equal rights to access, as normal, public information from the Council's administration staff.

9.2 Media Advice

Any requests for media advice or assistance from Councillors during the <u>Caretaker Regulated</u> Period will be referred to the General Manager. No media advice will be provided in relation to election issues or in regard to publicity that involves specific Councillors. If satisfied that advice sought by a Councillor during the <u>Caretaker Regulated</u> Period does not relate to the election or publicity involving any specific Councillor(s), the General Manager may authorise the provision of a response to such a request.

9.3 Publicity Campaigns

During the <u>Caretaker Regulated</u> Period, publicity campaigns, other than for the purpose of the conduct or promotion of the election will be avoided wherever possible. Where a publicity campaign is deemed necessary for a Council activity, it must be approved by the General Manager. In any event, the Council's publicity during the <u>Caretaker Regulated</u> Period will be restricted to communicating normal Council activities and initiatives.

9.4 Media Attention

Councillors will not use their position as an elected representative or their access to Council staff or resources to gain media attention in support of their or any other candidate's election campaign.

9.5 Council Employees

During the <u>Regulated</u>Caretaker Period no Council employee may make any public statement that relates to an election issue unless the statement has been approved by the General Manager.

9.6 Election Process Enquiries

All election process enquiries from candidates, whether current Councillors or not, will be directed to the Returning Officer or the State Electoral Commission.

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POLICY REGISTER

	COMPLAINTS HANDLING		
Folder Number:	F2007/00307		
POLICY OWNER / DIVISION:	Office of the General Manager		
POLICY OWNER / BRANCH:	Risk and Audit Branch		
FUNCTION:	Customer Service		
RELEVANT LEGISLATION:	Local Government Act 1993		
POLICY ADOPTION/AMENDMENT DATE:	8 August 2018 REPORT NUMBER : CS33/18		
REVIEW YEAR:	2021		
Amendment History:	8 March 2000 (Report GM2/00) 9 June 2004 (Report ST5/04) – Continuing 11 October 2006 (Report ST8/06) 14 November 2007 (Report ST18/07) 16 February 2011 (Report GM 1/11) 15 June 2011 (Report GM15/11) 17 April 2013 (Report GM2/13) 8 April 2015 (Report CS6/15)		
RELATED POLICIES:	Customer Service		

POLICY PURPOSE / OBJECTIVES:

- 1. To determine guidelines and procedures and set customer expectations for the management of complaints made to Council.
- 2. To ensure all customers are treated fairly and reasonably and that Council resources are used efficiently and effectively in responding to customers.
- 3. To provide guidance to staff, Councillors and the community regarding service standards for complaint handling.
- 4. To affirm to Council's customers that complaints are welcomed as an opportunity to improve our standard of service and will be dealt with in the most efficient and professional manner.

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POLICY STATEMENT:

- Hornsby Shire Council is committed to continual improvement in customer service. An effective complaints handling system is an essential part of the provision of quality customer service because it provides an organised way of recording and responding to customer complaints as well as identifying opportunities for improvement.
- 2. Hornsby Shire Council acknowledges that:
 - a) Every complainant deserves to be treated with fairness and respect.
 - b) In the absence of very good reasons to the contrary, members of the public have a right to access Council.
 - c) No complainant, regardless of how much time and effort is taken up in responding to their complaint, should be unconditionally deprived of having their complaint properly and appropriately considered
 - d) A complainant whose conduct is unreasonable, may have a legitimate complaint
 - e) The substance of the complaint dictates the level of resources allocated to it, not the complainant's wishes, demands or behaviour.
- 3. The complainant has the responsibility to ensure that the complaint clearly identifies the issues being complained about; refers to relevant dates, places and time; gives a concise description of the incident or problem; gives details of any relevant phone conversations and meetings; and gives relevant explanations and includes copies of all relevant documents (and only relevant documents).
- 4. Customer complaints are actioned in two ways:
 - a) by resolving the complaint where possible
 - b) by using the information disclosed by the complaint and its investigation to provide feedback on Council's systems and processes.

DEFINITIONS:

- A complaint, for the purposes of this Policy, is any allegation of impropriety or misconduct by a staff member, or any clearly articulated grievance of a significant nature about the handling of a matter, our policies, procedures, or service. (Based on the Division of Local Government Procedures for Managing Complaints and Feedback about the Division - dated November 2012.)
- 2. A complaint is not:
 - (a) a disagreement about an assessment of facts
 - b) a disagreement about an evaluation of evidence
 - c) a request for information or explanation of policies or procedures.

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POLICY PROTOCOLS:

1. Lodgement of Complaints

- 1.1 Complaints may be lodged either verbally by telephone or in person, or in writing by letter or email.
- 1.2 When a complaint is received it will be forwarded to the relevant Manager/Team Leader (or, in the case of a competitive neutrality complaint raised under National Competition Policy, the Public Officer) who will assess the details and determine the most appropriate method of managing the complaint. This may include escalation to the Divisional Manager or General Manager.
- 1.3 The Manager/Team Leader (or Public Officer in the case of competitive neutrality complaints) will acknowledge receipt of the complaint and provide the customer with an estimated time frame for dealing with the matter.
- 1.4 Where the customer remains dissatisfied with the handling or outcome of the complaint they may make representation to the General Manager in writing. The General Manager may consider options such as mediation or direct negotiation to resolve the complaint.
- 1.5 If the complaint cannot be resolved by Council, details will be forwarded to the customer regarding his/her ability to take complaints about Council to external authorities such as the Division of Local Government, the NSW Ombudsman and/or the Independent Commission Against Corruption (ICAC).

2. Customers Who Cannot Be Satisfied

- 2.1 Despite the best efforts of Council some customers may not be satisfied with the action taken or service provided and will not accept that Council is unable to provide any further assistance or greater level of service than has been provided already. Some may disagree with the action Council has taken in relation to their complaint or concern.
- 2.2 If, in the opinion of the General Manager, a customer cannot be satisfied and all appropriate avenues of internal review or appeal have been exhausted and the customer continues to write, telephone and/or visit Council, the following actions may be taken:
 - a) General Manager may write to the customer restating Council's position on the matter and advising that if the customer continues to contact Council regarding the matter Council may:
 - i) not accept any further phone calls from the customer;
 - ii) not grant any further interviews;
 - iii) require all further communication to be put in writing;
 - iv) continue to receive, read and file correspondence but only acknowledge or otherwise respond to it:

ATTACHMENT 1 - ITEM 1

- 1) if the customer provides significant new information relating to their complaint or concern; or
- 2) the customer raises new issues which in the General Manager's opinion, warrant fresh action.
- b) The General Manager shall advise Councillors and relevant staff of any correspondence issued in accordance with clause 2 (a).
- c) The customer shall be given an opportunity to make representations to the General Manager about Council's proposed course of action.
- d) If the customer continues to contact Council after being advised of Council's proposed course of action, the General Manager may, after considering any representations from the customer, advise the customer that any or all of points a) i) – iv) above will now apply.

3. Customers Who Make Unreasonable Demands

- 3.1 Customers who make unreasonable demands include members of the public whose demands on Council significantly and unreasonably divert Council's resources away from other functions or create an inequitable allocation of resources from other customers. Such demands may result from the amount of information requested, the nature or scale of services sought or the number of approaches seeking information, assistance or service.
- 3.2 If, in the opinion of the General Manager, a customer is making unreasonable demands on Council and the customer continues to contact Council, the following actions may be taken:
 - a) The General Manager may write to the customer advising them of Council's concern and requesting that they limit and focus their requests and that if the customer continues to place unreasonable demands on the organisation Council may:
 - not respond to any future correspondence and only take action where, in the opinion of the General Manager the correspondence raises specific, substantial and serious issues; or
 - ii) only respond to a certain number of requests in a given period.
 - b) The General Manager shall advise Councillors and relevant staff of any correspondence issued in accordance with clause 2(a).
 - c) The customer shall be given an opportunity to make representations to the General Manager about Council's proposed course of action.
 - d) If the customer continues to contact Council after being advised of Council's proposed course of action, the General Manager may, after considering any representations from the customer, advise the customer that either or both of the points in 2(a) will now apply.

4. Customers Who Constantly Raise the Same Issues with Different Staff

- 4.1 If, in the opinion of the General Manager, a customer constantly raises the same issues with different staff the following actions may be taken:
 - a) The General Manager may notify the customer that:
 - i) only a nominated staff member will deal with them in future;

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- ii) they must make an appointment with that person if they wish to discuss their matter; or
- iii) all future contact with Council must be in writing.
- b) The General Manager shall advise Councillors and relevant staff of any notification issued in accordance with clause 2(a).
- c) The customer shall be given an opportunity to make representations to the General Manager about Council's proposed course of action.

5. Customers Who Are Rude, Abusive or Aggressive

- 5.1 Rude, abusive or aggressive behaviour may include rude or otherwise vulgar noises, expressions or gestures, verbal abuse of a personal or general nature, threatening or offensive behaviour, physical violence against property or physical violence against a person.
- 5.2 If, in the opinion of any staff member, rude, abusive or aggressive comments or statements are made in telephone conversations or interviews, the staff member may:
 - a) Warn the caller that if the behaviour continues the conversation or interview will be terminated; and
 - b) Terminate the conversation or interview if the rude, abusive or aggressive behaviour continues after a warning has been given.
- 5.3 Where a conversation or interview is terminated, the staff member must notify either the General Manager, relevant Divisional Manager or Supervisor of the details as soon as possible.
- 5.4 If, in the opinion of the General Manager, any correspondence to Council contains personal abuse, inflammatory statements or material clearly intended to intimidate, the sender will be advised that the correspondence will not be acted upon until re-submitted in a reasonable manner.
- 5.5 Correspondence of abusive or inflammatory nature that does not relate to any functions of Council may be registered in Council's document management system but not acted upon.

6. Limiting a Customer's Access to Council

- 6.1 Where the General Manager is required to assess limiting a customer's access to Council in any of the ways specified in this policy, the General Manager must give consideration to the checklist provided within the Ombudsman's Manual detailing the warning signs of unreasonable conduct by complainants before finalising the action to be taken.
- 6.2 Where the General Manager determines to limit a customer's access to Council in any of the ways specified in this policy, the General Manager must advise the Council as soon as possible of the relevant circumstances and the action taken and forward such advice, where appropriate, to the Independent Commission Against Corruption (ICAC), Division of Local Government and the NSW Ombudsman for information.

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7. Complaints regarding Staff (excluding the General Manager)

(For information regarding employment related complaints please refer to Determination HR3.2 – Grievance Handling)

- 7.1 Verbal complaints relating to staff behaviour or conduct are to be forwarded to the appropriate Supervisor who will then determine whether or not to forward to the General Manager's office. Written complaints relating to staff behaviour or conduct are to be addressed to the General Manager's office and then forwarded to the immediate supervisor and Divisional Manager for fair and efficient investigation as appropriate. A complaint is considered an allegation until investigated and proven. If proven the complaint will be copied to the HR personnel file.
- 7.2 The staff subject to the complaint will be informed of the nature of the complaint and may seek advice regarding his/her response. In all instances the complainant will be informed of the procedures being undertaken within 14 days of lodging the complaint, and will be notified in writing of the final findings of the investigation, excluding information regarding any disciplinary action.
- 7.3 If the complainant is dissatisfied with the investigation findings he/she can request the complaint be escalated for investigation by the General Manager. If after the General Manager's investigation the complainant is still dissatisfied he/she is to be advised of the opportunity to complain to other relevant authorities, for example the NSW Ombudsman.

8. Complaints regarding Councillors or the General Manager

(For more information please refer to Hornsby Shire Council's Code of Conduct.)

- 8.1 Complaints against Councillors (including the Mayor) are to be referred to the General Manager. If the General Manager believes that the complaint may constitute a 'code of conduct complaint', it is required to be dealt with in accordance with Council's Procedures for the Administration of the Code of Conduct. If the complaint does not satisfy the definition of a 'code of conduct complaint', it is to be dealt with by the General Manager in accordance with this Policy.
- 8.2 Complaints made against the General Manager are to be referred to the Mayor. If the Mayor believes that the complaint may constitute a 'code of conduct complaint', it is required to be dealt with in accordance with Council's Procedures for the Administration of the Code of Conduct. If the complaint does not satisfy the definition of a 'code of conduct complaint', it is to be dealt with by the Mayor in accordance with this Policy.

9. Documentation and Record Keeping

9.1 In all of the situations referred to in this Policy, adequate documentary records, including actions taken in respect of the complaint, will be made and maintained on the appropriate Council file within Council's electronic document records management system.

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10. Anonymous Complaints

10.1 The General Manager and Divisional Managers, after considering the substance of an anonymous complaint have the discretion to act or decline to investigate the complaint.

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POLICY REGISTER

	REPORTING OF CORRUPTION, MALADMINISTRATION, SUBSTANTIAL WASTE, GOVERNMENT INFORMATION CONTRAVENTION AND OTHER WRONGDOING		
Folder Number:	F2007/00307		
POLICY OWNER / DIVISION:	Office of the General Manager		
POLICY OWNER / BRANCH:	Risk & Audit		
FUNCTION:	Governance		
RELEVANT LEGISLATION:	Public Interest Disclosures Act 1994		
POLICY ADOPTION/AMENDMENT DATE:	8 August 2018 REPORT NUMBER : CS33/18		
REVIEW YEAR:	2021		
AMENDMENT HISTORY:	9 September 1998 (Report ST47/98) 9 June 2004 (Report GM6/04) 10 October 2007 (Report GM13/07) 13 May 2009 (Report GM7/09) 15 June 2011 (Report GM15/11) 15 February 2012 (Report GM4/12) 17 April 2013 (Report GM2/13) 8 April 2015 (Report CS6/15)		
RELATED POLICIES:	Code of Conduct Grievance Handling Determination		

1. POLICY PURPOSE/OBJECTIVES:

- To confirm that the council does not tolerate corrupt conduct, maladministration or serious and substantial waste of public money, government information contravention or other wrongdoing.
- To confirm that the council recognises the value and importance of individual staff contributions to high standards of administrative and management practices and strongly supports reporting of corrupt conduct, maladministration or serious and substantial waste of public money, government information contravention or other wrongdoing.
- 3. To enhance and augment the establishment of procedures for making disclosures concerning such matters.

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- To protect people from reprisals that might otherwise be inflicted on them because of these disclosures.
- 5. To provide for disclosures to be properly investigated and dealt with.

2. ORGANISATIONAL COMMITMENT:

Hornsby Shire Council is committed to:

- creating a climate of trust, where staff and Councillors are comfortable and confident about reporting wrongdoing
- encouraging staff and Councillors to come forward if they have witnessed what they consider to be wrongdoing within the Council
- keeping the identity of the staff member or Councillor disclosing wrongdoing confidential, wherever possible and appropriate
- protecting staff and Councillors who make disclosures from any adverse action motivated by their report
- dealing with reports thoroughly and impartially and if some form of wrongdoing has been found, taking appropriate action to rectify it
- keeping staff and Councillors who make reports informed of their progress and the outcome
- encouraging staff and Councillors to report wrongdoing within the Council, but respecting
 any decision to report wrongdoing outside the Council provided that disclosure outside the
 Council is made in accordance with the provisions of the PID Act
- ensuring staff at all levels in the Council, and Councillors, understand the benefits of reporting wrongdoing, are familiar with this Policy, and aware of the needs of those who report wrongdoing
- providing adequate resources, both financial and human, to:
 - encourage reports of wrongdoing
 - o protect and support those who make such reports
 - o provide training for key personnel
 - investigate allegations
 - o properly manage any workplace issues that the allegations identify or create
 - correct any problem that is identified

The Hon Councillor Philip Ruddock AO Mayor

Steven Head General Manager

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3. POLICY STATEMENT:

- 1. This Policy applies to:
 - both Council staff and Councillors
 - permanent staff, whether full-time or part-time
 - temporary and casual staff
 - consultants
 - individual contractors working for the council
 - other people who perform public official functions for the council, such as volunteers
 - public officials of another council or public authority who report wrongdoing related to Hornsby Shire Council
- Council will encourage and facilitate disclosures and give meaningful protection from reprisals to persons who make substantially true allegations relating to corruption, maladministration and serious and substantial waste, breach of the GIPA Act or other wrongdoing as applicable under the provisions of the Public Interest Disclosures Act 1994.
- Council will encourage staff and Councillors to identify areas where opportunities for corruption, maladministration and serious and substantial waste, breach of the GIPA Act or other wrongdoing may occur.
- 4. Council will give full protection to any person who makes a substantially true disclosure in accordance with the Public Interest Disclosures Act 1994 and the Council's adopted procedure under the Act.
- 5. Council will provide immunity from disciplinary proceedings if a person making a disclosure has not engaged in serious misconduct or illegal conduct.

NOTE: Full details on making a public interest disclosure can be found in Council's reporting procedures booklet titled "Procedure for Reporting of Corruption, Serious Maladministration, Serious and Substantial Waste, Government Information Contravention and Other Wrongdoing".

4. ROLES AND RESPONSIBILITIES

a. <u>The role of Council staff and Councillors</u>

Staff and Councillors play an important role in contributing to a workplace where known or suspected wrongdoing is reported and dealt with appropriately. All council staff and Councillors are obliged to:

- report all known or suspected wrongdoing and support those who have made reports of wrongdoing
- if requested, assist those dealing with the report, including supplying information on request, cooperating with any investigation and maintaining confidentiality
- treat any staff member or person dealing with a report of wrongdoing with courtesy and respect
- respect the rights of any person the subject of reports.

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Staff and Councillors must not:

- make false or misleading reports of wrongdoing
- victimise or harass anyone who has made a report

Additionally, the behaviour of all Council staff and Councillors involved in the internal reporting process must adhere to the Code of Conduct. A breach of the Code could result in disciplinary action.

b. <u>The role of Council</u>

Council has a responsibility to establish and maintain a working environment that encourages staff and Councillors to report wrongdoing and supports them when they do. This includes keeping the identity of reporters confidential where practical and appropriate, and taking steps to protect reporters from reprisal and manage workplace conflict.

Council will assess all reports of wrongdoing it receives from staff and Councillors and deal with them appropriately. Once wrongdoing has been reported, Council takes 'ownership' of the matter. This means it is up to Council to decide whether a report should be investigated, and if so, how it should be investigated and by whom. Council will deal with all reports of wrongdoing fairly and reasonably, and respect the rights of any person the subject of a report.

Council must report on its obligations under the PID Act and statistical information about public interest disclosures in its annual report and to the NSW Ombudsman every six months.

To ensure Council complies with the PID Act and deals with all reports of wrongdoing properly, all staff and Councillors with roles outlined in this Policy will receive training on their responsibilities.

5. WHAT SHOULD BE REPORTED?

You should report any wrongdoing you see within the Council. Reports about the five categories of serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, and local government pecuniary interest contravention – will be dealt with under the PID Act as public interest disclosures and according to this Policy.

a. Corrupt conduct

Corrupt conduct is the dishonest or partial exercise of official functions by a public official.

For example, this could include:

 the improper use of knowledge, power or position for personal gain or the advantage of others

- acting dishonestly or unfairly, or breaching public trust
- a member of the public influencing a public official to use their position in a way that is dishonest, biased or breaches public trust.

For more information about corrupt conduct, see the NSW Ombudsman's guideline on <u>what</u> <u>can be reported</u>.

b. <u>Maladministration</u>

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives.

For example, this could include:

- making a decision and/or taking action that is unlawful
- refusing to grant someone a licence for reasons that are not related to the merits of their application.

For more information about maladministration, see the NSW Ombudsman's guideline on what can be reported.

c. Serious and substantial waste of public money

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in the loss or wastage of public resources.

For example, this could include:

- not following a competitive tendering process for a large scale contract
- having bad or no processes in place for a system involving large amounts of public funds.

For more information about serious and substantial waste, see the NSW Ombudsman's guideline on <u>what can be reported</u>.

d. Breach of the GIPA Act

A breach of the Government *Information (Public Access) Act 2009* (GIPA Act) is a failure to properly fulfil functions under the Act.

For example, this could include:

- destroying, concealing or altering records to prevent them from being released
- knowingly making decisions that are contrary to the legislation
- directing another person to make a decision that is contrary to the legislation.

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For more information about government information contravention, see the NSW Ombudsman's guideline on what can be reported.

e. Local government pecuniary interest contravention

A local government pecuniary interest contravention is a failure to fulfil certain functions under the *Local Government Act 1993* relating to the management of pecuniary interests. These include obligations to lodge disclosure of interests returns, lodge written declarations and disclose pecuniary interests at council and council committee meetings. 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.

For example, this could include:

- a senior council staff member recommending a family member for a council contract and not declaring the relationship
- a General Manager holding an undisclosed shareholding in a company competing for a council contract

For more information about local government pecuniary interest breaches, see the NSW Ombudsman's guideline on <u>what can be reported</u>.

f. Other wrongdoing

Although reports about the previous five categories of conduct can attract the specific protections of the PID Act, you should report all activities or incidents that you believe are wrong.

For example, these could include:

- harassment or unlawful discrimination
- reprisal action against a person who has reported wrongdoing
- practices that endanger the health or safety of staff or the public.

These types of issues should be reported to a supervisor, in line with the relevant Council policies, namely the Hornsby Shire Council Code of Conduct and Grievance Handling Determination.

Even if these reports are not dealt with as public interest disclosures, the Council will consider each matter and make every attempt to protect the staff member making the report from any form of reprisal.

6. WHEN WILL A REPORT BE PROTECTED?

Council will support any staff who report wrongdoing. For a report to be considered a public interest disclosure, it has to meet all of the requirements under the PID Act. These requirements are:

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- the report must be about one of the five categories of serious wrongdoing corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention
- the person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing
- the report has to be made to either the General Manager or, for reports about the General Manager the Mayor, a position nominated in this Policy (see section 10), an investigating authority or in limited circumstances to an MP or journalist (see section 11).

Reports by staff and Councillors will not be considered to be public interest disclosures if they:

- mostly question the merits of government policy
- are made with the sole or substantial motive of avoiding dismissal or other disciplinary action.

7. HOW TO MAKE A REPORT

You can report wrongdoing in writing or verbally. You are encouraged to make a report in writing as this can help to avoid any confusion or misinterpretation.

If a report is made verbally, the person receiving the report must make a comprehensive record of the disclosure and ask the person making the disclosure to sign this record. The staff member or Councillor should keep a copy of this record.

If you are concerned about being seen making a report, ask to meet in a discreet location away from the workplace.

All reports will be promptly and thoroughly assessed to determine what action will be taken to deal with the report and whether or not the report will be treated as a public interest disclosure.

The Disclosures Coordinator is responsible for assessing reports, in consultation with the General Manager where appropriate. All reports will be assessed on the information available to the Disclosures Coordinator at the time. It is up to the Disclosures Coordinator to decide whether an investigation should be carried out and how that investigation should be carried out. In assessing a report the Disclosures Coordinator may decide that the report should be referred elsewhere or that no action should be taken on the report.

8. CAN A REPORT BE ANONYMOUS?

There will be some situations where you may not want to identify yourself when you make a report. Although these reports will still be dealt with by the Council, it is best if you identify yourself. This allows us to provide you with any necessary protection and support, as well as feedback about what action is to be taken or has been taken to deal with the issues raised in the report, or the outcome of any investigation into the allegations.

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It is important to realise that an anonymous disclosure may not prevent you from being identified by the subjects of the report and your colleagues. If we do not know who made the report, it is very difficult for us to prevent any reprisal action should others identify you.

9. MAINTAINING CONFIDENTIALITY

The Council realises many staff will want their report to remain confidential. This can help to prevent any action being taken against you for reporting wrongdoing.

We are committed to keeping your identity, and the fact you have reported wrongdoing, confidential. However there may be situations where this may not be possible or appropriate. We will discuss with you whether it is possible to keep your report confidential.

If confidentiality cannot be maintained, we will develop a plan to support and protect you from risks of reprisal. You will be involved in developing this plan.

If you report wrongdoing, you should only discuss your report with those dealing with it. This will include the Disclosures Coordinators, and the General Manager (or the Mayor if the allegation concerns the General Manager). The fewer people who know about your report, before and after you make it, the more likely it will be that we can protect you from any reprisal.

Any staff or Councillors involved in the investigation or handling of a report, including witnesses, are also required to maintain confidentiality and not disclose information about the process or allegations to any person expect for those people responsible for handling the report.

10. WHO CAN RECEIVE A REPORT WITHIN THE COUNCIL?

You are encouraged to report general wrongdoing to your supervisor. However the PID Act requires that – for a report to be a public interest disclosure – it must be made to a public official in accordance with this Policy, and Council's "Procedure for reporting of corruption, serious maladministration, serious and substantial waste, Government information contravention and other wrongdoing".

Any supervisor who receives a report that they believe may be a public interest disclosure must refer the staff member making the report to one of the positions listed below.

The roles and responsibilities of key personnel are set out below, however, the General Manager, Mayor and Disclosure Coordinators are the only persons within the Council who can receive a public interest disclosure.

a. <u>General Manager</u>

The General Manager has ultimate responsibility for maintaining the internal reporting system and workplace reporting culture, and ensuring the Council complies with the PID Act. The General Manager can receive reports from staff and Councillors and has a responsibility to:

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- assess reports received by or referred to them, to determine whether or not the report should be treated as a public interest disclosure, and to decide how the report will be dealt with
- deal with reports made under Council's Code of Conduct in accordance with Council's adopted Procedures for the Administration of the Code of Conduct.
- ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- make decisions following any investigation or appoint an appropriate decision-maker
- take appropriate remedial action where wrongdoing is substantiated or systemic problems are identified
- refer actual or suspected corrupt conduct to the Independent Commission Against Corruption (ICAC)
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

The General Manager can be contacted on Ph: 9847-6604.

b. <u>Disclosures Coordinator</u>

The Disclosures Coordinator has a central role in Council's internal reporting system. The Disclosures Coordinator can receive and assess reports, and is the primary point of contact in the Council for the reporter. The Disclosures Coordinator has a responsibility to:

- assess reports to determine whether or not a report should be treated as a public interest disclosure, and to decide how each report will be dealt with (either under delegation or in consultation with the General Manager)
- deal with reports made under Council's Code of Conduct in accordance with Council's adopted Procedures for the Administration of the Code of Conduct.
- coordinate Council's response to a report
- acknowledge reports and provide updates and feedback to the reporter
- assess whether it is possible and appropriate to keep the reporter's identity confidential
- assess the risk of reprisal and workplace conflict related to or likely to arise out of a report, and develop strategies to manage any risk identified
- where required, provide or coordinate support to staff involved in the reporting or investigation process, including protecting the interests of any officer the subject of a report
- ensure the Council complies with the PID Act
- provide six-monthly reports to the NSW Ombudsman in accordance with section 6CA of the PID Act.

The Disclosures Coordinators are as follows:

- Manager Risk and Audit, Ph: 9847-6609
- Public Officer and Manager Governance and Customer Service, Ph: 9847-6608
- Governance and Administration Coordinator, Ph: 9847-6761

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c. <u>Disclosures Officers</u>

Disclosures Officers are additional points of contact within the internal reporting system. They can provide advice about the system and the internal reporting policy, receive reports of wrongdoing and assist staff and Councillors to make reports.

Disclosures Officers have a responsibility to:

- document *i*n writing any reports received verbally, and have the document signed and dated by the reporter
- make arrangements to ensure reporters can make reports privately and discreetly
 when requested, if necessary away from the workplace
- discuss with the reporter any concerns they may have about reprisal or workplace
 conflict
- carry out preliminary assessment and forward reports to the Disclosures Coordinator or General Manager for full assessment.

The Disclosures Officers are also the Disclosures Coordinators.

d. <u>Mayor</u>

The Mayor can receive reports from staff and Councillors about the General Manager. Where the Mayor receives such reports the Mayor has a responsibility to:

- assess the reports to determine whether or not they should be treated as a public interest disclosure, and to decide how they will be dealt with
- deal with reports made under Council's Code of Conduct in accordance with Council's adopted Procedures for the Administration of the Code of Conduct.
- refer reports to an investigating authority, where appropriate
- liaise with the Disclosures Coordinator to ensure there are strategies in place to support reporters, protect reporters from reprisal and manage workplace conflict that may arise in relation to a report
- refer actual or suspected corrupt conduct to the ICAC
- refer any evidence of a reprisal offence under section 20 of the PID Act to the Commissioner of Police or the ICAC.

The Mayor can be contacted on Ph: 9847-6604

e. <u>Supervisors and line managers</u>

Supervisors and line managers play an important role in managing the immediate workplace of those involved in or affected by the internal reporting process. Supervisors and line managers should be aware of the internal reporting policy and are responsible for creating a local work environment where staff are comfortable and confident about reporting wrongdoing. They have a responsibility to:

 encourage staff to report known or suspected wrongdoing within the organisation and support staff when they do

- identify reports made to them in the course of their work which could be public interest disclosures, and assist the staff member to make the report to an officer authorised to receive public interest disclosures under this Policy
- implement local management strategies, in consultation with the Disclosures Coordinator, to minimise the risk of reprisal or workplace conflict in relation to a report
- notify the Disclosures Coordinator or General Manager immediately if they believe a staff member is being subjected to reprisal as a result of reporting wrongdoing, or in the case of suspected reprisal by the General Manager, notify the Mayor.

11 WHO CAN RECEIVE A REPORT OUTSIDE OF THE COUNCIL?

Staff and Councillors are encouraged to report wrongdoing within the Council but internal reporting is not your only option. If you follow the guidance below, your report can still be a public interest disclosure.

You can choose to make your report to an investigating authority. You can do this first, or at any stage after your initial report to the Council.

You can also choose to make a report to a Member of Parliament or a journalist, but only in limited circumstances outlined below.

a. <u>Investigating Authorities</u>

The PID Act lists a number of investigating authorities in NSW that staff and Councillors can report wrongdoing to and the categories of wrongdoing each authority can deal with. In certain circumstances it may be preferable to make a report of wrongdoing to an investigative authority, for example a report about either the General Manager or Mayor.

The relevant investigating authorities are:

- the Auditor-General for reports about serious and substantial waste
- the Independent Commission Against Corruption (ICAC) for reports about corrupt conduct
- the Ombudsman for reports about maladministration
- the Office of Local Government, Department of Premier and Cabinet for disclosures about local government agencies
- the Information Commissioner for disclosures about a breach of the GIPA Act.

You should contact the relevant authority for advice about how to make a disclosure to them. Contact details for each investigating authority are provided at the end of this Policy.

You should be aware that it is very likely the investigating authority will discuss the case with the Council. We will make every effort to assist and cooperate with the investigating authority to ensure the matter is dealt with appropriately and there is a satisfactory outcome. We will also provide appropriate support and assistance to staff who report wrongdoing to an investigating authority, if we are made aware that this has occurred.

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b. <u>Members of Parliament or Journalists</u>

To have the protections of the PID Act, staff reporting wrongdoing to a Member of Parliament (MP) or a journalist must have already made substantially the same report to one of the following:

- The General Manager
- a person nominated in this Policy, including the Mayor for reports about the General Manager
- an investigating authority

Also, the Council or investigating authority that received the report must have either:

- decided not to investigate the matter
- decided to investigate the matter, but not completed the investigation within six months of the original report
- investigated the matter but not recommended any action as a result
- not told the person who made the report, within six months of the report being made, whether the matter will be investigated.

Most importantly – to be protected under the PID Act – if you report wrongdoing to an MP or a journalist you will need to be able to prove that you have reasonable grounds for believing that the disclosure is substantially true and that it is in fact substantially true.

If you report wrongdoing to a person or an organisation that is not listed above, or make a report to an MP or journalist without following the steps outlined above, you will not be protected under the PID Act. This may mean you will be in breach of legal obligations or Council's Code of Conduct – by, for example, disclosing confidential information.

For more information about reporting wrongdoing outside the Council, contact one of the Disclosures Coordinators or the NSW Ombudsman's Public Interest Disclosures Unit. Their contact details are provided at the end of this Policy.

12. FEEDBACK TO STAFF WHO REPORT WRONGDOING

Staff who report wrongdoing will be told what is happening in response to their report.

When you make a report, you will be given:

- an acknowledgement that your disclosure has been received
- the timeframe for when you will receive further updates
- the name and contact details of the people who can tell you what is happening.

The PID Act requires that you are provided with an acknowledgement letter and a copy of this Policy within 45 days after you have made your report. We will attempt to get this information to you within two working days from the date you make your report.

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After a decision is made about how your report will be dealt with, you will be given:

- information about the action that will be taken in response to your report
- likely timeframes for any investigation
- information about the resources available within Council to handle any concerns you may have
- information about external agencies and services you can access for support.

This information will be given to you within 10 working days from the date you make your report.

During any investigation, you will be given:

- information on the ongoing nature of the investigation
- information about the progress of the investigation and reasons for any delay
- advice if your identity needs to be disclosed for the purposes of investigating the matter, and an opportunity to talk about this.

At the end of any investigation, you will be given:

- enough information to show that adequate and appropriate action was taken and/or is proposed to be taken in response to your disclosure and any problem that was identified
- advice about whether you will be involved as a witness in any further matters, such as disciplinary or criminal proceedings.

13. PROTECTION AGAINST REPRISALS

Council will not tolerate any reprisal against staff or Councillors who report wrongdoing or are believed to have reported wrongdoing.

The PID Act provides protection for staff and Councillors who have made a public interest disclosure by imposing penalties on anyone who takes detrimental action against another person substantially in reprisal for that person making a public interest disclosure. These penalties also apply to cases where a person takes detrimental action against another because they believe or suspect the other person has made or may have made a public interest disclosure, even if they did not.

Detrimental action means action causing, comprising or involving any of the following:

- injury, damage or loss
- intimidation or harassment
- discrimination, disadvantage or adverse treatment in relation to employment
- dismissal from, or prejudice in, employment
- disciplinary proceedings.

A person who is found to have committed a reprisal offence may face criminal penalties such as imprisonment and/or fines, and may be required to pay the victim damages for any loss suffered as a result of the detrimental action. Taking detrimental action in reprisal is also a breach of the Council's

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Code of Conduct which may result in disciplinary action. In the case of Councillors, such disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

It is important for staff and Councillors to understand the nature and limitations of the protection provided by the PID Act. The PID Act protects reporters from detrimental action being taken against them because they have made, or are believed to have made, a public interest disclosure. It does not protect reporters from disciplinary or other management action where the Council has reasonable grounds to take such action.

a. Responding to allegations of reprisal

If you believe that detrimental action has been or is being taken against you or someone else in reprisal for reporting wrongdoing, you should tell your supervisor, the Disclosures Coordinator or the General Manager immediately. In the case of an allegation of reprisal by the General Manager, you can alternatively report this to the Mayor.

All supervisors must notify the Disclosures Coordinator or the General Manager if they suspect that reprisal against a staff member is occurring or has occurred, or if any such allegations are made to them. In the case of an allegation of reprisal by the General Manager, the Mayor can alternatively be notified.

If Council becomes aware of or suspects that reprisal is being or has been taken against a person who has made a disclosure, Council will:

- assess the allegation of reprisal to decide whether the report should be treated as a
 public interest disclosure and whether the matter warrants investigation or if other
 action should be taken to resolve the issue
- if the reprisal allegation warrants investigation, ensure this is conducted by a senior and experienced member of staff
- if it is established that reprisal is occurring against someone who has made a report, take all steps possible to stop that activity and protect the reporter
- take appropriate disciplinary action against anyone proven to have taken or threatened any action in reprisal for making a disclosure
- refer any breach of Part 9 of the Council's Code of Conduct (reprisal action) by a councillor or the General Manager to the Office of Local Government.
- refer any evidence of an offence under section 20 of the PID Act to the ICAC or NSW Police Force.

If you allege reprisal, you will be kept informed of the progress and outcome of any investigation or other action taken in response to your allegation.

If you have reported wrongdoing and are experiencing reprisal which you believe is not being dealt with effectively, contact the Office of Local Government, the Ombudsman or the ICAC (depending on the type of wrongdoing you reported). Contact details for these investigating authorities are included at the end of this policy.

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b. Protection against legal action

If you make a public interest disclosure in accordance with the PID Act, you will not be subject to any liability, and no action, claim or demand can be taken against you for having made the public interest disclosure. You will not have breached any confidentiality or secrecy obligations and you will have the defence of absolute privilege in defamation.

14. <u>SUPPORT FOR THOSE REPORTING WRONGDOING</u>

Council will make sure that staff and Councillors who have reported wrongdoing, regardless of whether they have made a public interest disclosure, are provided with access to any professional support they may need as a result of the reporting process – such as stress management or counselling services.

We also have staff who will support those who report wrongdoing. They are responsible for initiating and coordinating support, particularly to those who are suffering any form of reprisal.

All supervisors must notify the Disclosures Coordinator if they believe a staff member is suffering any detrimental action as a result of disclosing wrongdoing.

Access to support may also be available for other staff involved in the internal reporting process where appropriate. Reporters and other staff involved in the process can discuss their support options with the Disclosures Coordinator.

15. SANCTIONS FOR MAKING FALSE OR MISLEADING DISCLOSURES

It is important that all staff are aware that it is a criminal offence under the PID Act to wilfully make a false or misleading statement when reporting wrongdoing. Council will not support staff or Councillors who wilfully make false or misleading reports. Such conduct may also be a breach of the Code of Conduct resulting in disciplinary action. In the case of Councillors, disciplinary action may be taken under the misconduct provisions of the *Local Government Act 1993* and may include suspension or disqualification from civic office.

16. THE RIGHTS OF THE PERSON THE SUBJECT OF THE REPORT

The Council is committed to ensuring staff or Councillors who are the subject of a report of wrongdoing are treated fairly and reasonably. This includes keeping the identity of any person the subject of a report confidential, where this is practical and appropriate.

If you are the subject of the report, you will be advised of the allegations made against you at an appropriate time and before any adverse findings. At this time you will be:

- advised of the details of the allegation
- advised of your rights and obligations under the relevant related policies and procedures
- kept informed about the progress of any investigation

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- given a reasonable opportunity to respond to any allegation made against you
- told the outcome of any investigation, including any decision made about whether or not further action will be taken against you.

Where the reported allegations against the subject officer are clearly wrong, or have been investigated and unsubstantiated, the subject officer will be supported by the Council. The fact of the allegations and any investigation will be kept confidential unless otherwise agreed to by the subject officer.

17. <u>REVIEW</u>

This policy will be reviewed by the Council every two (2) years.

18. MORE INFORMATION

More information around public interest disclosures is available on our intranet. Staff can also access advice and guidance from Council's Disclosures Coordinators, and the NSW Ombudsman's website at <u>www.ombo.nsw.gov.au</u>.

19. <u>RESOURCES</u>

The contact details for external investigating authorities that staff can make a public interest disclosure to or seek advice from are listed below.

For disclosures about corrupt conduct:

Independent Commission Against Corruption (ICAC) Phone: 02 8281 5999 Toll free: 1800 463 909 Tel. typewriter (TTY): 02 8281 5773 Facsimile: 02 9264 5364 Email: <u>icac@icac.nsw.gov.au</u> Web: <u>www.icac.nsw.gov.au</u> Address: Level 7, 255 Elizabeth Street Sydney NSW 2000

For disclosures about maladministration:

ICAC) NSW Ombudsman Phone: 02 9286 1000 Toll free (outside Sydney metro): 1800 451 524 Tel. typewriter (TTY): 02 9264 8050 Facsimile: 02 9283 2911 Email: <u>nswombo@ombo.nsw.gov.au</u> Web: <u>www.ombo.nsw.gov.au</u> Street Address: Level 24, 580 George Street, Sydney NSW 2000

For disclosures about serious and substantial	For disclosures about local government
<u>waste</u> :	agencies:
Auditor-General of the NSW Audit Office	Office of Local Government in the Department of
Phone: 02 9275 7100	Premier and Cabinet
Facsimile: 02 9275 7200	Phone: 02 4428 4100
Email: mail@audit.nsw.gov.au	Tel. typewriter (TTY): 02 4428 4209
Web: www.audit.nsw.gov.au	Facsimile: 02 4428 4199
Address: Level 19, Tower 2, Darling Park, 201	Email: <u>olg@olg.nsw.gov.au</u>
Sussex Street, Sydney NSW 2000	Web: <u>www.olg.nsw.gov.au</u>

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Address: 5 O'Keefe Avenue, Nowra, NSW 2541

For disclosures about breaches of the GIPA Act:

Information Commissioner Toll free: 1800 472 679 Facsimile: 02 8114 3756 Email: <u>ipcinfo@ipc.nsw.gov.au</u> Web: <u>www.ipc.nsw.gov.au</u> Address: Level 15, McKell Building, 2-24 Rawson Place, Haymarket NSW 2000

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POLICY REGISTER

POLICY TITLE:	REVIEW, ADOPTION AND ALTERATION OF COUNCIL POLICIES		
Folder Number:	F2007/00307		
POLICY OWNER / DIVISION:	Office of the Gener	al Manager	
POLICY OWNER / BRANCH:	Risk & Audit	Risk & Audit	
FUNCTION:	Policies - Review, Adoption, Alteration		
RELEVANT LEGISLATION:			
POLICY ADOPTION/AMENDMENT DATE:	8 August 2018	REPORT NUMBER:	CS33/18
REVIEW YEAR:	2021		
AMENDMENT HISTORY:	9 September 1998 9 June 2004 (Repo 10 October 2007 (F 13 May 2009 (Repo 17 April 2013 (Repo 8 April 2015 (Repo	rt GM6/04) Report GM13/07) ort GM7/09) ort GM2/13)	

POLICY PURPOSE / OBJECTIVES:

To provide a process for the adoption, alteration and periodical review of Council Policies.

POLICY STATEMENT:

Definitions

- 1. A "Policy" is a document which is:
 - a) required or allowed by legislation to be determined by resolution of Council;
 - a broad statement of objectives, protocols or principles in relation to specific activities/issues of Council, the merits of which require it to be determined by resolution of Council;
 - a collection of rules, regulations, codes and standards relating to a particular subject and designed to provide guidance to Council staff and external parties about how business is done with Council, the merits of which require it to be determined by resolution of Council;

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- A "Determination" is a document which has the same characteristics as a Policy but the merits of which do not require it to be determined by formal resolution of Council. A Determination is made effective by decision of the General Manager and/or EXCO.
- 3. A "Guideline" or "Procedure" is a document which provides more specific direction on how a Policy or Determination is to be implemented or applied, or which outlines specific work tasks within the organisation. A Guideline or Procedure can be made effective by decision of a Branch Manager, Divisional Manager, General Manager or EXCO.

New and Altered Policies

1. New draft Policies and draft alterations to existing Policies which are submitted to a Council meeting in conjunction with a report and are adopted, automatically become formal Policies of Council.

Deletion of Policies

Deletion of a Policy occurs when:-

1. A resolution to delete is adopted by Council

Review of Policies

 Each Division of Council has a two month period in the first and third year of each term of Council where they are responsible for carrying out a review of all Policies under their control and recommending any changes to Council. Those two month periods are:-

February - March	Office of the General Manager & Corporate Support Division
April - May	Environment and Human ServicesCommunity and Environment Division
June - July	Planning and Compliance Division
August - September	Infrastructure and Recreation Major Projects Division

 Changes in legislation are to be brought to Council's attention immediately where they affect Council's Policies.

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POLICY REGISTER

POLICY TITLE: COUNCILLORS. EMPLOYEES AND VOLUNTEERS -LEGAL ASSISTANCE AND INSURANCE PROTECTION FOLDER NUMBER: F2007/00307 POLICY OWNER / DIVISION: Office of the General Manager POLICY OWNER / BRANCH: Risk and Audit Branch FUNCTION: Councillors, staff and volunteers Local Government Act 1993 RELEVANT LEGISLATION: POLICY ADOPTION/AMENDMENT DATE 8 August 2018 REPORT NUMBER: CS33/18 REVIEW YEAR: 2021 AMENDMENT HISTORY: 8 November 2006 (Report CC86/06) 11 April 2007 (Report CC11/07) 8 April 2009 (Report CC12/09) 20 April 2011 (Report CC10/11) 17 April 2013 (Report GM2/13) 8 April 2015 (Report CS6/15) RELATED POLICIES: Policy - Councillors' Expenses and Facilities

POLICY PURPOSE / OBJECTIVES:

- To clarify Council's interpretation of its obligations under the Local Government Act 1993 (the Act) relating to the funding of legal costs to Hornsby Shire Councillors, Council Employees and Volunteers.
- To make provision for the funding of legal costs to Hornsby Shire Councillors, Council Employees and Volunteers in situations where existing insurance policies may not provide indemnity for these costs.
- 3. To ensure that Councillors, Officers and Council Volunteers are afforded indemnity against:
 - Loss occasioned by legal actions brought against the Councillor, Council Employee or Volunteer arising from the discharge of their respective duties;
 - Loss occasioned by sustaining an injury during the discharge of their respective duties or whilst travelling directly to and from such duties; and
 - c) Loss of or damage to personal property approved for use in the pursuit of Council business;

but always subject to the terms and conditions of the various insurance policies or indemnity fund memberships arranged by Council.

(N.B. Most of the contract indemnities contain excesses or deductibles: losses under the deductible amount are not considered in this Policy.)

POLICY STATEMENT:

Legal Assistance

- 1. Council shall disburse money only if the disbursement is authorised by the Act, either expressly or because it is supplemental or incidental to or consequential upon the exercise of its functions.
- In the particular circumstances outlined below, Council shall advance the reasonable legal expenses of.
 - a Councillor, Employee or Volunteer defending an action arising from the performance in good faith of a function under the Local Government Act 1993 or any other Act (a statutory function) (as section 731 of the Act refers)
 - a Councillor, Employee or Volunteer defending an action in defamation provided the statements complained of were made in good faith in the course of exercising a statutory function
 - c) a Councillor, Employee or Volunteer for proceedings before the Local Government Pecuniary Interest Tribunal or an investigative body provided the subject of the proceedings arises from the performance in good faith of a statutory function
- 3. Legal expenses incurred in relation to proceedings arising out of the performance by a Councillor, Employee or Volunteer of his or her statutory functions shall be distinguished from expenses incurred in proceedings arising merely from something which a Councillor, Employee or Volunteer has done during his or her term in office or term of service, respectively. An example of the latter is expenses arising from an investigation as to whether a Councillor, Employee or Volunteer acted corruptly by using knowledge of a proposed rezoning for private gain.
- 4. For the purposes of this Policy, the limit of Council's obligation to advance funds shall be \$400,000. It should be noted, however, that Council's insurance policies may extend to a greater value, subject to the terms, conditions and limitations of the contract of insurance. Where Council's insurer provides indemnity directly to a Councillor, Employee or Volunteer, Council's financial obligations shall be correspondingly reduced.
- 5. a) Where an application is made to the General Manager for an advance of funds under this Policy, the General Manager shall examine all the evidence readily available and where it is considered the claim could be made against an existing insurance policy held by Council, a claim shall be submitted to Council's insurer in the first instance. Where the claim is not covered or accepted by Council's insurer, the General Manager shall (i) determine whether, in the particular matter, there is any legal impediment to the operation of the Policy and (ii) confirm that, in his/her opinion, it is reasonable to believe the applicant will receive a finding

-ATTACHMENT that the applicant has acted in good faith. Where the General Manager is the applicant, these duties fall to the Mayor.

- b) Where, after examining the relevant evidence, the General Manager forms the opinion that the applicant has a reasonable prospect of the legal proceedings producing a finding that the applicant has acted in good faith, he/she may authorise the release of Council monies for the funding of the applicant's legal defences until such times as the issue of good faith has been examined by a properly constituted external inquiry or court of competent jurisdiction with a finding handed down. If the finding is unfavourable to the applicant then Council's funding shall cease and Council may require the applicant to fully reimburse the advanced funds to Council.
- c) In circumstances where the General Manager declines to release Council monies in terms of b) above, the applicant is entitled to a review by Council's elected body. Where such a review is requested by the applicant, the General Manager shall prepare a report for Council's consideration which shall include independent and relevant professional advice on the matter. A copy of the General Manager's report, including the independent advice, shall be made available to the applicant at the same time as it is provided to the Councillors.
- d) Where the court or inquiry finding on good faith is favourable to the applicant, Council may authorise further funding of legal defence costs up to the limit specified in Point 4.
- e) Whenever the applicant, in the course of defending the case, receives any monies through the court as costs or damages then such monies shall be passed immediately to Council until the funding advances have been repaid.
- 6. Council has resolved to maintain insurances which shall, to the extent to which cover is reasonably available, indemnify Council for its potential exposure under this Policy. The insurance cover may also further indemnify Councillors, Employees and Volunteers subject to the terms, conditions and limitations of the contract of insurance. No application may be considered under this Policy until the question of indemnification of the applicant by the insurer has been resolved. All parties shall give close consideration to the requirements of the insurers and no action shall be taken which may prejudice any party's rights to indemnification by the insurer. Where the insurer provides indemnity directly to a Councillor, Employee or Volunteer, Council's obligations under this Policy shall be correspondingly reduced.
- 7. Council shall not advance the costs of an action in defamation taken by a Councillor, Employee or Volunteer as "plaintiff".
- 8. Council shall not advance the costs of a Councillor, Employee or Volunteer seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation.
- 9. This Policy shall not be revoked by Council in such a way as to disadvantage a Councillor, Employee or Volunteer who has previously reported in writing to the General Manager (or, in the case of the General Manager as applicant, to the Mayor) a circumstance which may lead to proceedings against that Councillor, Employee or Volunteer.

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Insurance Protection

- 1. Council arranges various insurances and indemnity funds which indemnify, variously, Council as an entity and Councillors, Employees and Volunteers as individuals. This Policy deals with those insurance and indemnity arrangements which cover or include cover for Councillors, Employees and Volunteers as individuals.
- Council will take out and maintain in force the underlisted insurance or indemnity policies, ensuring that all policies contain the most favourable terms and conditions reasonably available in the insurance market which extend insurance cover or indemnity protection to Councillors, Employees and Volunteers (where practicable).

a) Public and Products Liability and Professional Indemnity

This policy extends cover for circumstances which Council shall become legally liable to pay by way of compensation in respect of death or personal injury, or loss or damage to property caused by an occurrence in connection with the Council's business from Public Liability or Products Liability (as defined by the contract wording), or any Professional Indemnity claim (as defined by the contract wording) arising out of any negligent act, error or omission actually committed or alleged to have been committed in the conduct of Council's business.

b) Councillors and Officers Liability

This policy extends cover for circumstances where a claim arises out of a wrongful act or wrongful breach, committed, attempted or alleged to have been committed or attempted. This policy wording does not extend to Volunteers.

c) Local Government Personal Accident and Corporate Travel Insurance Policy

This policy extends limited cover for property losses, medical and general expenses incurred whilst acting within the scope of duties for and on behalf of Council, including travelling on Council business.

d) <u>Property Protection</u>

This policy extends limited cover for loss or damage to personal belongings of Councillors, Employees and Volunteers whilst on Council premises.

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POLICY REGISTER

	SOCIAL MEDIA POLICY FOR COUNCILLORS	
FOLDER NUMBER:		
POLICY OWNER / DIVISION:	Office of the General Manager	
POLICY OWNER / BRANCH:	Strategy and Place	
FUNCTION:	Communications and Engagement	
RELEVANT LEGISLATION:	Local Government Act 1993 NSW Independent Commission Against Corruption Act 1988 NSW The Government Information (Public Access) Act 2009 NSW Anti-Discrimination Act 1977 NSW The Privacy Act 1988 Privacy and Personal Information Protection Act 1998 NSW Work Health and Safety Act 2011 NSW Model Code of Conduct for Local Councils in NSW 2015 Australian Constitution Copyright Act 1968 Cth Copyright Amendment (Digital Agenda) Act 2000 Cth	
POLICY ADOPTION/AMENDMENT DATE	E: 8 July 2020 REPORT NUMBER: GM14/20	
REVIEW YEAR:	2022	
AMENDMENT HISTORY:		
RELATED POLICIES:	Media Policy Code of Conduct for Staff Code of Conduct for Councillors Draft Crisis Communications Policy Social Media Determination Electronic Communication Security Determination	

INTRODUCTION

The role of social media

Hornsby Shire Council is committed to building open, transparent and active relationships with our community.

Our goal through social media is to create healthy two-way conversations between Council and our community to inform and shape the services we provide.

Page 1 of 7 Date printed: 23 June 2020 The better we communicate and engage with our stakeholders, the better our Council and its services will be for Hornsby Shire. A strong social media presence positions Council to be where its stakeholders are. This improves our ability to share conversations with the community and to listen to feedback.

When used effectively, social media can inform and update stakeholders about Council news, services, programs, events and engagement opportunities. Strategic social media use can position the Council positively in the community and help people to become aware and engaged in our work.

Representing Council

As an elected Councillor, it is your responsibility to ensure your actions or communications on your personal and Council-owned social media do not bring Council into disrepute.

Whether you're commenting, replying, tagging, sharing or reacting to a post on Council social media, or posting and engaging on your Councillor or personal account, it's important you understand how to best represent Council and the many stakeholders in our community.

See page 6 for more details about appropriate engagement on your personal and Councillor social media accounts.

PURPOSE OF POLICY

This policy acts as a guide for Councillors who communicate and engage with the community through personal, Councillor and Council-owned social media profiles. Our foremost priorities when using social media are to protect Council's reputation and to provide an effective platform for community engagement and public debate.

This policy should be read together with the <u>Electronic Communication Security Determination</u> and the <u>Code of Conduct</u>. Any social media activity that breaches Council policy or code will be subject to investigation.

COUNCIL-OWNED SOCIAL MEDIA

Communication and engagement purposes

- \checkmark To engage with residents and stakeholders
- \checkmark To engage with partner organisations
- \checkmark To participate in peer, professional and community networks

Page 2 of 7 Date printed: 23 June 2020 \checkmark To provide access to content related to our core business and services

Approved platforms

✓ Platforms for Council communications are approved by the Communications and Engagement Manager. Contact the Communications and Engagement Manager for the latest list of approved platforms.

✓ Notify the Communications and Engagement Manager when you create a new social media account representing your Councillor role.

Content creation for Council platforms

✓ Authorised Communications and Engagement team members develop and publish social media content on behalf of Council on Council-owned media.

✓ The Communications and Engagement team manages the overall design of content for Councilowned social media.

✓ It is the Communications <u>Coordinators'</u> Officer's responsibility to review and edit content for Council-owned social media for style, appropriateness and clarity of messaging.

Official communications

 \checkmark Publish official public statements and media releases

 \checkmark Never publish an embargoed statement before the approved date and time

 \checkmark Never publish or distribute internal communications between staff or trusted partners on social media

 \checkmark Never speak on Council's behalf or commit Council to any action

MANAGING YOUR COUNCILLOR SOCIAL MEDIA ACCOUNTS

If your Councillor social media accounts are public, it's likely they will be accessed by stakeholders within and outside the Hornsby Shire community. The following guide will help you manage your social media accounts to best represent Council and the broader community.

Social media management

 \checkmark Use your Council email address and job title on your Councillor profiles.

 \checkmark Specify your ownership and responsibility for social media accounts in profile descriptions.

Page 3 of 7 Date printed: 23 June 2020 \checkmark Display a professional portrait photo in the profile image on all social media accounts.

 \checkmark Link posts back to the Council website where appropriate and helpful to the community.

<u>Title</u>

Specify your title, ownership and responsibility for social media accounts in profile descriptions.

For example: John Smith - Hornsby Shire Councillor

Content

Style

When using social media, people tend to skim—looking for key words and quickly moving on. Keep your posts and comments concise and avoid using jargon or technical language where possible.

<u>Tone</u>

Very few public figures and individuals adopt a strictly formal tone on social media. As a Councillor, you have an opportunity to insert your professional personality into the content you share and engage with. This means finding an appropriate balance between the informal nature of the channel and your responsibilities within the community.

- Friendly
- Approachable
- Professional
- Informed
- Fair

Images and video

Ensure you have the appropriate permissions from people and organisations when sharing images and videos on your social media accounts. Always complete a detailed check of every piece of media before you share—scanning for inappropriate or offensive gestures, messages, symbols or references.

<u>Timely</u>

Stay in the loop with the latest community and Council developments. Keep your stakeholders up to date with the latest news and events by sharing posts from Council and reliable news outlets. Post, comment and respond to news and updates within 12 hours of the original publishing time.

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<u>Relevant</u>

Ensure the information you choose to share with the community is relevant to their needs and interests. Remember your audience is varied and diverse: They want to hear about a broad range of issues, projects, events and developments as they happen in the community.

Accurate

As an owner of a social media page, it is also your responsibility to ensure that content and commentary on your page—in a post or comment—is appropriate and accurate. Always fact check your work and refer to Council's official and approved messaging.

Important information

Always treat embargoed, confidential or sensitive information with care. Unless you are confident the information is not already publicly available, consult the Communications and Engagement Manager about appropriate messaging and strategic release timing. This includes:

a) information or draft plans of Council, including matters under discussion in informal Councillor workshops, unless express permission has been provided by the General Manager, and

b) any photo of staff without the express permission of the employee and their divisional manager.

Personal opinion

When expressing a personal opinion, always provide a disclaimer in your post, comment or communication.

For example: The views and opinions expressed in this post are mine and do not necessarily reflect the official policy or position of the Hornsby Shire Council.

Unacceptable behaviour

As an owner of a social media page, it is your responsibility to remove or hide information that is misleading or false, slanderous, abusive, derogatory or defamatory. Inappropriate behaviour on social media includes:

- X abusive language
- X harassment
- X threats

X sexist, racist or derogatory language that is intended to cause concern or harm

- X defamatory or libellous statements
- X anything stated in contempt of court

Page 5 of 7 Date printed: 23 June 2020 X anything stated to break the law (hate crime) or to incite others to break the law

X spam

X inappropriate material or links to inappropriate content

X trolling or users who post misleading or false information about Council.

YOUR PERSONAL USE OF SOCIAL MEDIA

Potential conflict

All residents—including Councillors—have the right to express their opinion through their personal social media accounts. You are encouraged to engage with Council content while remaining cognisant of your connection with Council (i.e. if you have listed Council as your place of work on your personal Facebook page).

Whether you intend to or not, what you post online is traceable, permanently available, reproduceable and can negatively reflect on Council and your position as a Councillor. If you want to share your opinion, always consider the best channel for your feedback, comment or question.

Always endeavour to ensure your personal engagement or comments about Council are appropriate—not incendiary, abusive, libellous or derogatory. It is your responsibility to ensure your personal social media activity doesn't conflict with your duties and obligations as a Councillor. If it does, then we may investigate the issue further.

Your guide to appropriate engagement on Council channels

Whether you are using social media for private or professional purposes, Council's <u>Code of Conduct</u> details the parameters of acceptable behaviour when engaging with Council social channels.

You must not use social media to post or share comments, photos, videos, electronic recordings or other information that:

a) is offensive, humiliating, threatening or intimidating to other Council officials or those who deal with the Council

b) contains content about or concerning the Council that is false, misleading or deceptive

- c) divulges confidential Council information
- d) breaches the privacy of other Council officials or those who deal with Council

e) contains allegations of suspected breaches of this code or information about the consideration of a matter under the Procedures

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f) could be perceived to be an official comment on behalf of the Council where you have not been authorised to make such comment.

BREACHES OF THE POLICY

The Communications and Engagement team monitors social media and manages our reputation online. Where necessary, the Communications and Engagement Manager will discuss online behaviour and will advise Councillors on best practice.

The Communications and Engagement team will elevate online behaviour that breaches this policy or the Code of Conduct to the Communications and Engagement Manager, and if necessary, the General Manager for further investigation.

MORE INFORMATION

If you have further questions or need more information about our social media policy for Councillors, please get in touch with our Communications and Engagement Manager.

Email: tbass@hornsby.nsw.gov.au

Phone: 9847 6790

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POLICY REGISTER

	PUBLIC AND COMMUNITY INPUT	
Folder Number:	F2007/00307	
POLICY OWNER / DIVISION:	Office of the General Manager	
POLICY OWNER / BRANCH:	Strategy and Place	
FUNCTION:	Communication/Consultation	
RELEVANT LEGISLATION:	Various	
POLICY ADOPTION/AMENDMENT DATE:	8 August 2018 REPORT NUMBER : CS33/18	
REVIEW YEAR:	2021	
AMENDMENT HISTORY:	9 September 1998 (Report ST47/98) 11 November 1998 (Report CC135/98) 9 June 2004 (Report GM6/04) 10 October 2007 (Report GM13/07) 13 May 2009 (Report GM7/09) 18 May 2011 (Report GM12/11) 17 April 2013 (Report GM2/13) 8 April 2015 (Report CS6/15)	
RELATED POLICIES		

RELATED POLICIES:

POLICY PURPOSE / OBJECTIVES:

- 1. To ensure that where public input is sought in respect of matters of significant community interest that the greatest opportunity is available for all interested parties to make a submission.
- To ensure that members of the public receive appropriate notification of advertised or exhibited proposals by Council, by providing that such notification must not occur during the Christmas holiday period.

POLICY STATEMENT:

- 1. In respect of all matters of community significance where public input is sought, appropriate methods of publicity must be used.
- 2. Such publicity shall permit public input to be received within a minimum of 14 days or longer period as determined by Council.
- All submissions are to be forwarded to the General Manager, but copies may be forwarded by staff or the public to Councillors for information.

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- All submissions received are to be considered by Councillors and staff in pursuing a matter of community significance.
- 5. Where Council advertises or exhibits a proposal to members of the community and invites submissions tenders or expressions of interest, the closing date for submissions or lodgement of the tender or expression of interest must not fall between 20 December and 20 January.
- 6. Where the proposal, tender or expression of interest is to be advertised or exhibited for a specified period of time, the period between 20 December and 20 January shall not be counted as part of the advertising or exhibition period. For example, if Council resolves to place an item on exhibition for 21 days from 10 December, the 21 day period would not be taken to expire until 31 January.
- 7. Clauses 5 and 6 of this policy will apply for all Council proposals, tenders or expressions of interest which are advertised or placed on exhibition unless the Council resolves, or the General Manager determines otherwise, due to the particular circumstances of a proposal.

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POLICY REGISTER

FOLDER NUMBER:		
POLICY OWNER / DIVISION:	Office of the General Manager	
POLICY OWNER / BRANCH:	Strategy and Place	
FUNCTION:	Engagement Communication	
RELEVANT LEGISLATION:	Local Government Act 1993 (section 8A) Environmental Planning and Assessment Act 1979 (division 2.6 schedule 1)	
POLICY ADOPTION/AMENDMENT DAT	E: 14 July 2021 REPORT NUMBER: GM30/21	
REVIEW YEAR:		
AMENDMENT HISTORY:		
RELATED POLICIES/PLANS:	Community Engagement Plan	

POLICY PURPOSE:

The purpose of this Policy is to outline Council's commitment to building open, transparent and active relationships with the community. The Policy articulates the standards and principles that underpin all engagement practice within Council and outlines the high-level process by which engagement is planned and implemented.

Good engagement enables the community to stay informed, find their voice and participate in the decision-making process. Council engages with a diverse range of internal and external stakeholder groups on a daily basis and is committed to the process of engaging with every stakeholder segment, including those who are hard to reach.

Council will ensure that public participation is embedded within core business, and stakeholders are encouraged to discuss, decide and debate matters to create better outcomes for the community.

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POLICY STATEMENT:

- Council's engagement practice aligns with the International Association for Public Participation (IAP2) engagement principles and best practice¹. As such, Council believes anyone affected by a decision should have the right to be involved in the decision-making process.
- Strategic stakeholder engagement matches the impact of a community issue or Council project to the most effective and appropriate level of stakeholder influence on decisions.
- Stakeholder needs will be recognised and engagement methods selected that will create meaningful opportunities for participation and sustainable decisions.

INFORM	CONSULT	INVOLVE	COLLABORATE	EMPOWER
To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, opportunities and/or solutions.	To obtain public feedback on analysis, alternatives and/or decisions.	To work directly with the public throughout the process to ensure that public concerns and aspirations are consistently understood and considered.	To partner with the public in each aspect of the decision including the development of alternatives and the identification of the preferred solution.	To place final decision making in the hands o the public.
We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations, and provide feedback on how public input influenced the decision. We will seek your feedback on drafts and proposals.	We will work with you to ensure that your concerns and aspirations are directly reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will work together with you to formulate solutions and incorporate your advice and recommendations into the decisions to the maximum extent possible.	We will implement what you decide.

INTERNATIONAL ASSOCIATION FOR PUBLIC PARTICIPATION¹

POLICY STANDARDS:

- All levels of participation are legitimate. The avenues available will vary depending on the goals, timeframe, resources and impact of the decision Council needs to make.
- Engagement will be authentic and meaningful, it will clearly define stakeholder roles, articulate the impact and scope of the decision and deliver on Council's participation promise to stakeholders.
- Council will seek to uphold the highest standard of engagement; projects (where applicable) are guided by a Community Engagement Plan that considers the relationship between stakeholders and Council's decision.

PARAMETERS

- What's the scope
 of the issue?
- What's the engagement objective?

PRIORITISE

Who will it impact? How?Who do you need to

consult?

What level of participation do you need?
What is and isn't

PLAN

negotiable?

PARTICIPATION

- Is the engagement accessible and inclusive of all stakeholders?
- Are you closing the loop?

POLICY PRINCIPLES:

• Seven core principles drive Council's approach to engaging the public. The principles are: -

1. Strategy-led

Our engagement activities are informed, intentional and led by a strategy that supports the vision and purposes of Council. We want to find better, smarter ways and our growth mindset means we're always looking to see how we can improve.

2. Proactive

Our engagement activities are rigorous and comprehensive. We engage so we can make decisions with the community, rather than for the community. Engagement helps us look to the future to anticipate needs.

3. Open and inclusive

Our engagement is strategic and captures accurate information that represents our community as a whole. We exist to serve the residents of Hornsby Shire – we're here for every person in every suburb. We provide a safe environment, so stakeholders feel comfortable and confident to be part of the decision-making process. We welcome respectful discussion and engagement.

4. <u>Easy</u>

Our engagement activities are easily accessible for our diverse community. We will present easy-to-understand information that is written in plain English, with simple but memorable visuals and opportunities for feedback. We're committed to two-way conversations where we lean in, listen carefully and speak clearly.

5. <u>Relevant</u>

Our engagement activities are purposeful and can be adapted to suit the context, nature, scale and levels of community interest in a project, plan or issue. We will capture our learnings from each engagement to continuously improve our engagement activities.

Page 3 of 4 Date printed: 2 July 2021 6. Timely

Our engagement activities will meet the required minimum legislated exhibition timeframes (where applicable). Depending on the nature of the project, plan or issue, we will set stakeholder feedback timeframes.

7. Meaningful

Our engagement activities are designed to help stakeholders become aware, informed and meaningfully involved in all of Council's decisions. Council will advise stakeholders how their input has influenced decisions. We will clearly articulate our vision for Hornsby Shire and explain reasons behind decisions.

POLICY APPLICATION:

The Policy applies to all staff, Councillors and contractors commissioned by Council to undertake community engagement work.

POLICY IMPLEMENTATION:

The Policy will be implemented though Council's Community Engagement Plan.

MORE INFORMATION

If you have further questions or need more information about our community engagement policy, please get in touch with our Communications and Engagement Manager.

Email: tbass@hornsby.nsw.gov.au

Phone: 02 9847 6790

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POLICY REGISTER

	COMMUNITY REPRESENTATION		
Folder Number:	F2007/00307		
POLICY OWNER / DIVISION:	Office of the Genera	Office of the General Manager	
POLICY OWNER / BRANCH:	Strategy and Place		
FUNCTION:	Communication/Consultation		
RELEVANT LEGISLATION: POLICY ADOPTION/AMENDMENT DATE:	8 August 2018	Report Number: CS33/18	
REVIEW YEAR:	2021		
AMENDMENT HISTORY:	9 September 1998 (Report ST47/98) 9 June 2004 (Report GM6/04) 10 October 2007 (Report GM13/07) 13 May 2009 (Report GM7/09) 17 April 2013 (Report GM2/13) 8 April 2015 (Report CS6/15)		

RELATED POLICIES:

POLICY PURPOSE / OBJECTIVES:

 To ensure that where community representatives are sought for committees, working groups or advisory panels, the greatest opportunity is given for the most appropriately qualified person/s to be appointed.

POLICY STATEMENT:

- 1. Registrations of interest from the community shall be invited by way of notification on Council's website and if appropriate in the media.
- 2. Prior to the public notification, the criteria for selection must be determined and made available to the public during the notification period.
- 3. A panel shall be determined, as appropriate, to evaluate and recommend the community representation to Council.
- 4. Where the community representatives have had or will have an involvement with Council staff, or a particular Branch of Council, or where the representation involves a matter within a particular officer's area of responsibility, staff representative/s shall be included in the evaluation/selection process.

Page 1 of 2 Date printed: 8 August 2018 5. The determination of community representation shall rest with the Council or the Council may delegate this responsibility to a person or committee.

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POLICY REGISTER

FOLDER NUMBER:		
POLICY OWNER / DIVISION:	Office of the General Manager	
POLICY OWNER / BRANCH:	Strategy and Place	
FUNCTION:	Communications and Engagement	
RELEVANT LEGISLATION:	Local Government Act 1993 NSW Independent Commission Against Corruption Act 1988 NSW The Government Information (Public Access) Act 2009 NSW Anti-Discrimination Act 1977 NSW The Privacy Act 1988 Privacy and Personal Information Protection Act 1998 NSW Work Health and Safety Act 2011 NSW Model Code of Conduct for Local Councils in NSW 2015 Australian Constitution Copyright Act 1968 Cth Copyright Amendment (Digital Agenda) Act 2000 Cth	
POLICY ADOPTION/AMENDMENT DATE: 8 July 2020 REPORT NUMBER: GM14/20		
REVIEW YEAR:		
AMENDMENT HISTORY:		
RELATED POLICIES:	Draft Crisis Communications Policy Code of Conduct for Staff Code of Conduct for Councillors Social Media Determination Social Media Policy for Councillors	

INTRODUCTION

The role of media at Hornsby Shire Council

Our goal is to form transparent and trustworthy relationships with our community through media.

This media policy outlines how all media activities are to be managed by all Hornsby Shire Council staff and representatives.

Page 1 of 7 Date printed: 23 June 2020 We commit to delivering timely, accurate, relevant, honest and respectful information and updates to our community through our channels and by openly engaging with the media. Achieving these goals as an organisation will enable Council to be a voice the community can trust, listen to and engage with across a variety of issues.

Policy scope

In this media policy, we unpack different media activities, roles, responsibilities, approval processes, media relations and ethical principles. Beyond this policy, our Communications and Engagement team can provide additional guidance around the acceptable use of media for Hornsby Shire Council.

The media policy covers you if you are:

- an employee of Hornsby Shire Council
- an agency, casual, temporary or contract member of staff working for or on behalf of Council
- staff of third-party suppliers contracted to or providing services to Council
- volunteers working with us on Council projects
- students on work placements with Council.

POLICY PURPOSE

This policy acts as a guide for Council staff and representatives who communicate and engage on behalf of Council through media. Our foremost priorities in our media activities are to protect Council's reputation and positive profile, and to maintain productive media relationships.

The purpose of this policy is to identify Council's authorised spokespeople and to establish media protocols and approval processes for effective Council media activity. When communicating on behalf of Council, all staff and officers must adhere to our Code of Conduct. Any media activity that breaches Council policy or code will be subject to investigation.

PRINCIPLES

In addition to abiding by Council policy, every Council representative participating in media activities should ensure they hold to universal media and news standards. Delegated Council representatives who share information with the media and public should ensure everything they distribute, state and share is:

- truthful
- accurate
- objective

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- impartial
- fair
- accountable (to the Council, media and public).

Definitions

Media	All forms of communication distributed to a wider audience, including—but not limited to—newspapers, magazines, journals, radio, television, journalists, digital and social media.
Media comment	A verbal statement issued by a delegated Council representative and distributed via a formal channel to state a position on a matter of formal business or Council policy of public interest.
Media statement	A written statement issued by a delegated Council representative to state a position on a matter of formal business or Council policy of public interest.
Media release	A written and pre-approved statement issued by Council to media to share information and updates in response to an issue or about Council activities.

ROLES AND RESPONSIBILITIES

<u>Mayor</u>

The Mayor is Council's official spokesperson on all policy matters and key decisions. The Mayor is an authorised signatory for letters to the editor on policy issues. If the Mayor is unavailable, the Deputy Mayor acts as Council's delegated spokesperson.

The Mayor may nominate Councillors to speak on behalf of Council.

<u>Councillors</u>

Councillors have the right to express their personal opinion on any issue and to speak on behalf of the community they represent. When Councillors comment, they should clearly express their views are personal and do not reflect the official position of Council. When delegated to speak on behalf of Council by the Mayor, Councillors must express and support Council's entire policy on the issue at hand.

General Manager

The General Manager is the-Council's official spokesperson on all operational and administrative issues and is an authorised signatory for letters to the editor on related issues. They have final approval of all media statements and responses, in consultation with the Mayor, unless otherwise delegated to a Divisional Manager.

The General Manager may nominate Council staff to act as spokespeople for Council operational and administrative matters.

Communications and Engagement Manager

The Communications and Engagement Manager manages and coordinates all communications and engagement activities, including media-related materials. They also have oversight and sign-off on all external media statements and responses.

CommunicationsMedia Coordinator

The <u>Communications</u>Media Coordinator sits within the Communications and Engagement team and reports to the Communications and Engagement Manager.

The <u>Communications</u><u>Media</u> Coordinator has the delegated authority to liaise with media and prepare media responses on behalf of Council. However, as per the Code of Conduct, they do not have the authority to issue statements without appropriate approvals—from the Communications and Engagement Manager, relevant Directors and the General Manager as required—prior to sending any responses or media releases.

The <u>Communications</u><u>Media</u> Coordinator is the primary contact for media enquiries and is responsible for maintaining relationships with local and mainstream media. All media enquiries must be sent to <u>media@hornsby.nsw.gov.au</u>.

The <u>Communications</u>Media Coordinator will maintain a record of all media enquiries and responses. All media releases will be posted on Council's website.

Communications and Engagement team

Authorised members of the Communications and Engagement team support the <u>CommunicationsMedia</u> Coordinator by managing and monitoring day-to-day media enquiries and activity.

The Communications and Engagement team advises to the Mayor, Councillors, the General Manager and delegated Council officials as required.

Employees, contractors and volunteers

Hornsby Shire Council representatives are not authorised to speak on behalf of the organisation, unless they have received delegation from the General Manager. Staff members are encouraged to

Page 4 of 7 Date printed: 23 June 2020 share information with the <u>Communications</u>Media Coordinator that could be used as a basis for a media release. Or, they may prepare a draft for media release but must supply it to the Communications and Engagement team for review, approval and distribution.

Approvals

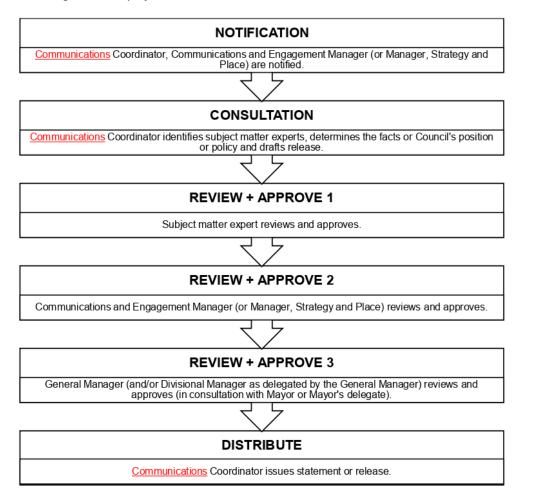
Seek approval for content prior to distribution.

- Where possible, Council will respond to all reasonable media enquiries.
- It is the responsibility of the Communications and Engagement team to give media-related advice and training where necessary. This may include advice on strategic messaging prior to release and distribution.
- When preparing media materials to address incoming enquiries or for Council-issued releases, the <u>Communications</u>Media Coordinator should seek appropriate consultation with relevant subject-matter experts.
- All media releases, content and key messages must be reviewed and approved by the <u>CommunicationsMedia</u> Coordinator, the Communications and Engagement Manager, and the relevant Director and the General Manager as necessary prior to release and distribution by the <u>CommunicationsMedia</u> Coordinator.
- Written comment quoting the Mayor must be reviewed and approved by the General Manager and the <u>Communications</u>Media Coordinator.
- Media releases related to policy must be approved by the Mayor (particularly where a policy is quoted in the release).
- Media outlet requests to film or photograph Council staff, facilities, meetings and events must be referred to the Communications and Engagement Manager who will consult with and seek approval from the General Manager and relevant Council staff.

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Approval and review process

Incoming media enquiry or Council-initiated release



PRIVACY

We comply with Australian legislation and requirements, including <u>The Privacy Act 1988</u> and <u>The</u> <u>NSW Privacy and Personal Information Protection Act 1998</u> (PPIP), which regulate how personal information is collected, used, stored, secured and disclosed.

The PPIP Act stipulates that any information about an individual, whose identity could be reasonably ascertained from the information is "personal information". Personal information can only be disclosed to the media if:

the person has consented

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- the disclosure to the media is directly related to the purpose for which the information was collected, and the Council has no reason to believe that the individual concerned would object to the disclosure
- the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10 of the PPIP Act, that information of that kind is usually disclosed to the media.

MISUSE OF COUNCIL INFORMATION

If a staff member or Council representative wishes to act in a personal capacity while accessing media outlets, they should express they are not speaking on behalf of Hornsby Shire Council. In line with the Council's Code of Conduct, employees should be aware of their association with Council and refrain from discussing their work or any matter relating to Council.

Any information staff gain in their official capacity is confidential. Staff should take care to maintain the security and integrity of official documents and information. Staff may only disclose official information and documentation in the course of their employment when authorised to do so or by law. Staff should never publish or distribute internal communications between staff or trusted partners through channels and media.

If information is considered public knowledge, staff may share it. However, if there is any uncertainty as to whether the information is public knowledge, it should be treated as confidential. Staff and Council representatives should never publish an embargoed statement before the approved date and time.

BREACHES OF THE POLICY

The Communications and Engagement team manages and coordinates media for Council and protects our organisational reputation. Where necessary, the team will monitor and discuss in-house media processes, and will advise Council on best practice.

The Communications and Engagement team will elevate inappropriate behaviour that breaches this policy or the Code of Conduct to the Communications and Engagement Manager, and if necessary, the General Manager for further investigation.

MORE INFORMATION

If you have further questions or need more information about our media policy, please get in touch with our Communications and Engagement Manager.

Email: <u>tbass@hornsby.nsw.gov.au</u>

Phone: 02 9847 6790

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POLICY REGISTER

	ELECTRIC VEHICLE (EV) CHARGING STATIONS ON PUBLIC LAND POLICY
FOLDER NUMBER:	F2007/00307
POLICY OWNER / DIVISION:	Office of the General Manager
POLICY OWNER / BRANCH: FUNCTION:	Strategy and Place Strategy
RELEVANT LEGISLATION:	
POLICY ADOPTION/AMENDMENT	DATE: April 2020 REPORT NUMBER: GM7/20_CS4/22
REVIEW YEAR:	202 <mark>42</mark>
AMENDMENT HISTORY:	<u>GM7/20</u>
RELATED POLICIES:	POL00223 Land – Lease-Licence by Council Draft Integrated Land Use Transport Strategy (ILUTS)

POLICY PURPOSE / OBJECTIVES:

The purpose of this Policy is to provide criteria for the provision, installation, management, maintenance and removal of Electric Vehicle (EV) charging stations on public land in the Hornsby Shire Local Government Area (LGA). The Policy outlines the principles for planning EV charging infrastructure on public land and to support the selection of the correct type of infrastructure at the right location.

This Policy does not apply to the provision of EV charging stations on private land. Council does not preference provision of EV charging stations on public land over private land.

CONTEXT

An outcome goal of the Community Strategic Plan is <u>'Our Shire is resilient and able to respond to</u> climate change events and stresses' <u>'A net zero community</u>. Hornsby Shire Council adopted a Net Zero by 2050 target in 2019 and is committed to reducing its corporate carbon emissions and assisting our community to reduce theirs.

Our residents rely heavily on vehicle travel. According to 2016/17 data, over 70% 2019/20 data, over 78% of our community travel by car either as a driver or passenger. The installation of EV

Page 1 of 6 Date printed: 12/2/2020 charging facilities will provide <u>the required infrastructure to transition to alterative vehicles visual</u> engagement with our community regarding alternative transport modes and reducing our community carbon emissions. It will also support Hornsby residents who don't have access to off-street parking for home charging.

EV charging locations may also increase visitation to our local town centres and retail hubs improving the Shire's economic development and tourism opportunities.

EVs are expected to become more established in the Australian market in the coming decades. Research shows that the main barriers currently stalling greater uptake of EVs in Australia are the high cost of the vehicles, inadequate incentives, inadequate supporting policy and the lack of public charging infrastructure away from home (this leads to 'range anxiety'). A suitable network of EV charging infrastructure will be required across Australia to support the use of EVs now and in the future. Hornsby Shire is uniquely placed to service this network due to its location at the end of the M1 motorway.

The NSW Government <u>and Federal Government</u> also haves a number of initiatives aimed to facilitate the up-take of EVs in NSW including:

- NSW Government Electric Vehicle Strategy
- Future Transport 2056 NSW Electric and Hybrid Vehicle Plan
- State Infrastructure Strategy 2018-2038
- NSW Government Rebate for Electric Vehicle Purchases
- Federal Government Future Fuels Fund.

POLICY STATEMENT:

Fair and Equitable Selection of <u>Charging Station Types and</u> Providers

The provision of EV charging stations on public land must be fair and equitable. This includes:

- Providing universal charging facilities, or reasonable provision made for the adaptation of the infrastructure to support all types of EVs;
- <u>Undertaking an assessment of the public benefit of any proposal made to Council by an</u> <u>external provider;</u> or
- An Expression of Interest process when an applicant (other than Council) proposes Ensuring no exclusive use of EV charging infrastructure for a particular vehicle, group of users or any other exclusionary particulars.

Council may also undertake an Expression of Interest (EOI) to engage providers for the installation of electric vehicle charging stations on Council land.

Site Selection Criteria

A site may be considered suitable for an EV charging station where the proposal demonstrates to Council's satisfaction that:

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- The land is public land. *Public Land* as defined in the *Local Government Act 1993* means any land (including a public reserve) vested in or under the control of the council, but does not include:
 - A public road*
 - Land to which the Crown Lands Management Act 2016 applies*
 - A common
 - o A regional park under the National Parks and Wildlife Act 1974
 - *For the purpose of this Policy, a public road and Crown reserve may also be considered suitable for an EV charging station.
- The land classification has been considered; land classified as operational land is preferred, however community land may be considered suitable where the proposal is in accordance with the *Local Government Act 1993, Crown Land Management Act 2016* and the relevant Plan of Management for that land.
- EV charging stations are permissible under the relevant legislation at the proposed location (e.g. Hornsby Local Environment Plan 2013, State Environmental Planning Policy (Infrastructure) 2007, the *Roads Act 1993* and the like). Note: the provider is responsible for securing development consent or approval, where applicable, from Hornsby Shire Council on a case by case basis.
- Environmental constraints and characteristics have been considered.
- The electricity supply infrastructure capacity of the existing electrical supply network is suitable (or can be reasonably upgraded). Note: Council will bear no cost or responsibility for the provision of, or upgrade to, electrical supply infrastructure to service a proposed EV charging site.
- The land is located within reasonable walking distance (generally within 500m) of a town or village centre or strategic tourism location.
- The land has a reasonable connection to the wider road network.
- The facility and its operation will not adversely impact upon the amenity of surrounding development or the public domain.
- The facility is safe with adequate lighting, and pedestrian and vehicular access available at all times of the day and night.
- The facility is compliant with relevant Australian Standards and Regulations for occupational health and safety. Charging station hardware must be located a safe distance away from hazards (e.g. dangerous goods and fuels).
- Consultation with the local community and relevant stakeholders, including Hornsby Council, is satisfactorily undertaken in conjunction with site selection.
- Permission granted by Council for the provision of a charging station on Council land will not preclude Council from allowing other providers including Council to offer charging facilities on nearby land or through the use of 'Smart Poles' or similar infrastructure.

EV Charging Station Design Considerations

Visibility and Identification

Page 3 of 6 Date printed: 12/2/2020 The facility and all ancillary infrastructure (including signage, parking bays and charging infrastructure) shall be easily visible and accessible for users to find, with consideration of the following:

- Wayfinding signage (white on blue) will be required to allow users to find the EV charging station from the main road network, similar to wayfinding signs for car parking (note: wayfinding signage shall be consistent with the relevant standards and guidelines)
- Integration with a mobile application that is visible on both an Apple and Android smart device
- All EV parking bays shall be clearly labelled with the words 'EV Charging Only' (or the like)
 painted on the ground. Note: non-compliance with this provision may be considered in areas
 where it is inappropriate, provided sufficient alternative identification can be provided to the
 satisfaction of Council or where the infrastructure is provided in a manner that allows for more
 widespread charging including the use of 'Smart Poles' or other similar infrastructure
- Appropriate pole signage must be installed to indicate the parking spaces are allocated for EV charging only. Pole signage shall be provided in accordance with *Transport Roads and Maritime Service* Sign No. r5-41-5 or equivalent. Should an EV not be charging, or another car parked here, the driver could incur a fine (Disobey No Parking Sign)
- Adequate lighting is to be provided for the safety and security of EV drivers / passengers, vehicles and infrastructure. Lighting should be sufficient to easily read associated signs, instructions, controls on vehicles / EV infrastructure, identify all possible EV charging inlet locations and for charging cable visibility. A lighting audit is required prior to the installation of any charging bay
- Parking spaces shall be located to ensure that safe sight distances for pedestrians and vehicles are met
- Promotion of tobacco, alcohol and gambling and related industries is not permitted on any
 advertising infrastructure related to the EV charging station. The use of such advertising by
 any provider is to be disclosed to Council in the initial application process. Advertising is also
 to be undertaken in accordance with the Outdoor Media Association Code of Ethics.
 Separate Planning approvals may be required for the presence of advertising.

Parking Configuration

The following must be considered at a minimum:

- All aspects of EV charging bays are to be designed and constructed in accordance with relevant Australian Standards and current industry best practice.
- All EV carparking spaces / charging bay pavements shall be constructed to Council's specifications including sealing, kerb and guttering, pram ramps, signage and line marking, where upgrades are required by Council
- Preference is given to the provision of EV charging infrastructure at a minimum of two related (e.g. adjoining / adjacent) carparking spaces in any given location
- All EV charging bays are to be compliant with the *Disability Discrimination Act* 1992 which includes compliance with current standards for access (AS2890.5/AS2890.6).
- Where appropriate, the location of EV charging stations should not be in premium, high demand parking spaces that would encourage non-EVs to occupy the charging bay.

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Charging Technology

Council's objective is to facilitate the provision of EV charging infrastructure in an efficient, inclusive and accessible manner. All EV charging stations on Public Land in the Hornsby Shire are to provide fast charging capabilities.

The installation of EV charging on Public Land in the Hornsby Shire shall be consistent with the State Government Policy *Future Transport 2056 – NSW Electric and Hybrid Vehicle Plan* and current industry practices and at a minimum include:

- Consistent standards for charging connections based on European CCS2 and CHAdeMo for DC fast chargers, and Type 2 for AC charging.
- Preference for connected and smart chargers, to allow the most efficient energy use for both consumers and network operators.
- Preference for all EV charging infrastructure to have a minimum input power capacity of 25kw.
- Where possible the charging cable shall have the capacity to reach all points of the carparking space, to cater for EVs with front, rear or side charging points. Cables should not be a hazard for pedestrians or other vehicles at any given time.

Note: Provision may be altered where future EV charging infrastructure supersedes that which is written in this Policy, if an alternative is demonstrated to be suitable, to the satisfaction of Council.

Leasing Arrangements

Any provision of EV charging stations on public land will be subject to licensing / leasing arrangements with Council. Licence and/or lease terms shall be in accordance with Council's Land – Lease/Licence by Council Policy. Entering into a lease or licence agreement with Council to utilise public land for installation and operation of an EV charging station in no way guarantees development consent or approval. All risk, public safety and legal liability issues will be specified via any lease agreements.

Terms of Lease/License

Any provision of EV charging stations on public land will be subject to licensing / leasing arrangements, or similar, between the provider and Council. Licence and/or lease terms shall be in accordance with Council Policy Land – Lease/Licence by Council. Council reserves the right to require appropriate remuneration for use of Public Land for the purposes of EV charging stations. This may be in the form of a lease / licence fee, apportionment of user fees, or other. This is to be determined on a case-by-case basis as part of any licence / lease (or other) arrangement. Entering into a lease or licence agreement with Council to utilise public land for installation and operation of an EV charging station in no way guarantees development consent or approval, where required.

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Public /Private Partnership

Council may consider entering into a Public/Private Partnership with relevant providers to deliver EV charging stations on Public Land. This will be subject to negotiation on a case-by-case basis.

Installation, maintenance and removal

The installation, maintenance and removal costs associated with the installation and operation of any given EV charging station is the responsibility of the provider, unless by prior agreement with Council. This includes ancillary infrastructure such as car parking spaces, signage, line marking, pavement marking, lighting and the like, and the future reinstatement of the site if required/proposed.

Prior to the commencement of any works, a security bond will be required to be paid to Council. This bond will be held by Council for the duration of any lease or licence agreement. Any costs incurred by Council in excess of the bond amount will be borne by the applicant/EV charging station operator. The detail will be specified within the lease or licence agreement.

The provider shall implement a maintenance schedule which includes regular inspections. All maintenance and works shall be carried out in a timely manner to avoid delays to service.

Non-compliance with this Policy may lead to the termination of any agreement between the provider and Council and may result in the forced removal of EV charging and ancillary infrastructure, at the cost and responsibility of the provider. The specific terms are to be determined as part of any licence / lease arrangement, or similar.

Application of ESD Principles

Many EV users aim to reduce their carbon emissions from driving. As such, preference is for the use of renewable energy for the EV charging station energy source (e.g. accredited GreenPower, solar panels/storage battery etc), where practical.

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POLICY REGISTER

POLICY TITLE:	Car Share Parking
FOLDER NUMBER:	F2007/00307
POLICY OWNER / DIVISION:	Office of the General Manager
POLICY OWNER / BRANCH:	Strategy and Place
FUNCTION:	Strategy
RELEVANT LEGISLATION:	
POLICY ADOPTION/AMENDMENT DAT	E: <u>8 April 202011 May 2022</u> REPORT NUMBER: <u>CS4/22</u>
REVIEW YEAR:	202 <u>4</u> 2
AMENDMENT HISTORY:	<u>8 April 2020</u>
RELATED POLICIES:	Integrated Land Use Transport Strategy (ILUTS)

Draft Design and Place SEPP 2022

NSW Future Transport Strategy 2056

POLICY PURPOSE / OBJECTIVES:

The purpose of this Policy is to provide a framework for determining eligibility, approval and management of Car Share Parking on public land in the Hornsby Shire Local Government Area (LGA). The Policy outlines the objectives of Car Share Schemes, criteria for selecting operators as well as locations.

This Policy does not apply to private Car Share Schemes provided in private off-street parking areas operated by private developers, as well as vehicles participating in Peer-to-Peer Car Sharing Schemes, such as Car Next Door.

CONTEXT

The Integrated Land Use and Transport Strategy (ILUTS) envisages a well-planned, sustainable urban environment. This includes responding to climate change, less congested roads and encouraging the community to use alternative methods of transport.

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A formal policy for car sharing in Hornsby Shire will complement the goal of achieving reduced dependency on the private car through the following objectives:

i) <u>Encourage more sustainable travel options</u>

As part of an overarching initiative to encourage alternative forms of travel, car sharing forms part of an integrated transport system. Car share members generally drive less and use other modes of transport for certain journeys more often than non-members (notably <u>for</u> short journeys that may be taken instead on foot or by bike), particularly those that have given up a vehicle in place of a car share membership.

ii) <u>Reduce emissions</u>

On average, car share vehicles are newer and more fuel-efficient, emitting fewer CO_2 emissions than the average car.

In some cities where car share schemes operate successfully, member households generate less than half of the CO₂ and other local air pollutants per year from car usage than the average household (with at least one full car license holder) (*source: Transport Research Laboratory 2012*).

As car share members generally drive less and use other modes of transport for certain journeys, increased uptake of the schemes will result in associated reductions in private vehicle use which is necessary to help achieve Council's target of zero net emissions by 2050.

iii) <u>Alleviate parking pressure</u>

Car share schemes lead to a reduction in parking congestion given that multiple users share one car and one parking space. This is particularly the case in areas of the LGA where onstreet parking space is extremely limited and such areas have much to gain from the successful introduction of car sharing operations.

Traffic congestion is also reduced as car share members tend to use public transport and walk and cycle more after joining a car share scheme. As an example, about 20 per cent of car share members in an inner city LGA in Sydney put off purchasing a second car once they became a member (*source GoGet 2013*).

iv) Improve access and social inclusion

Car sharing has the potential to help address social exclusion and improve quality of life by providing access to a vehicle without the expense of ownership. Giving space back to people that would otherwise be required for parking improves social cohesion, increases space for other activities and helps contribute toward the development of vibrant communities.

v) <u>Support modal integration through longer-term behaviour change</u>

Car sharing provides access to a car without ownership and membership encourages longer term behavioural change, which further promotes an increasingly sustainable and integrated

Page 2 of 7 Date printed: 13/3/20 transport system. Each journey taken using a car share vehicle promotes a greater sense of conscious decision making with regard to the mode chosen.

POLICY PROVISIONS

Council supports the concept of car sharing in the interests of reducing congestion and emissions and making the most efficient use of on-street parking space. This includes more traditional car sharing formats in addition to newer approaches that are emerging, such as autonomous vehicles.

Formal agreements between Council and car share organisations wishing to operate in the LGA will be made. This will include a requirement for car share operators to provide Council with regular reports on scheme operations and take up in the Shire and financial contribution.

TRIAL PERIOD

Council will consider any proposal by a car share organisation to undertake a trial within the LGA. The trial is to be fully funded by the car share organisation and will be reviewed after a 12-18 month period. Council Fees and Charges will not be applicable during the trial period.

EXPRESSION OF INTEREST FOR USE OF CAR SHARING BAYS

Council may, at its discretion, elect to undertake an Expression of Interest (EOI) for the use of car sharing spaces by one or more operators. The EOI will be open to any operator, including incumbents.

ELIGIBILITY CRITERIA OF CAR SHARE OPERATORS

Hornsby Shire car sharing is open to operators who meet the requirements of this Policy. To qualify, the operator must:

- i) Have, or be developing, a network of vehicles in locations that are accessible to all members.
- Allow any licensed driver over age 18 to join, subject to reasonable creditworthiness and driving history checks.
- iii) Supply an internet and phone-based booking system available to members 24 hours per day, allowing immediate booking of vehicles.
- iv) Offer booking durations of one hour or less.
- Ensure that no vehicle is booked for longer than four days unless a replacement vehicle is provided for the designated space.
- vi) Prohibit the routine long-duration reservation or exclusive use, including overnight use, of a car sharing space by any one user, either individual or business.
- vii) Confirm in writing their acceptance of the obligations set out in this Policy.

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CONSIDERATION OF SUITABLE LOCATIONS AND OPERATORS

A hierarchy of preferred location types for car share spaces will be followed when assessing suitability of location. Those bays located near public transport, community hubs or high_density areas will be given priority whilst those bays located immediately outside of <u>single-dwelling</u> residential properties will be given a lower priority or avoided. The suitability of a new dedicated car share space may be prioritised against the following hierarchy:

- Transport hub/node
- Residential flat building or other medium to high density housing
- Public facility (e.g. library, leisure centre)
- Retail property
- Side of single dwelling at intersection
- Single dwelling with driveway
- Single dwelling without driveway

Preference will be given to operators with vehicles that are fuel efficient in line with environmental sustainability objectives, such as hybrid or electric vehicles, and comply with the Australian Green Vehicle Guide ratings of four stars and above only.

APPROVAL AND OPERATIONAL MANAGEMENT OF CAR SHARE SCHEMES

- Council reserves the right to reject any application to establish a car share space.
- Council will also refuse speculative and large scale placement of car share vehicles in the absence of reasonably foreseeable resident and business demand.
- Council and/or the car share organisation will consult with residents and businesses in the immediate vicinity of a proposed on-street space.
- Proposals to allocate on-street car share spaces will be considered by the Hornsby Shire Local Traffic Committee.
- Council may provide car share spaces in Council-owned public car parks. The number of car share parking spaces provided in a public car park will be allocated subject to the applicant meeting the criteria applicable for high coverage areas with parking utilisation being of over 75 per cent.
- Council will publish annual usage summaries of car share vehicles by precinct or suburb. Detailed reports will be treated as commercially confidential for two years from the date on which the reports are due to Council.
- Operators will be charged two fees for each approved bay: An Application Fee and a Renewal Fee. Council reserves the right to adjust the amount payable and the fee schedule, in accordance with the Fees and Charges.

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THE APPLICATION FEE

• The Applications Fee reflects the conversion and re-purposing costs, and the right to operate a car share service from the public parking space for four (4) years. The Application Fee is based on a full cost recovery approach for the activities undertaken by Council.

THE RENEWAL FEE

- After the initial four (4) years of operation, the car share operator will be required to apply to renew the agreement for another four (4) years by paying a Renewal Fee. The Renewal Fee allows car share providers to continue offering a car share service in public parking spaces for a further four (4) years. Renewal is not automatic.
- All car share operators will be notified in writing of any change to the fee schedule, a minimum of 30 days before the updated fees take effect.
- In the case of change of control or ownership by one operator of another operator, Council may revoke or reallocate any or all of the operators' spaces. For the purposes of this section an 'operator' is a car share company with on-street spaces allocated by Hornsby Shire Council.
- Allocated car share spaces may not be transferred between operators.

RENEWAL

Car share parking spaces will be approved for a maximum of four (4) years and the agreement for exclusive use of these spaces will expire on 30 June of the fourth year of operation. Renewal Fees will be subject to annual CPI increase or published in the Fees and Charges.

OBLIGATIONS OF CAR SHARE OPERATORS

Operators must meet the obligations set out below:

- i) Bear the initial cost associated with the installation of a car share facility which must include the supply and installation of two generic car share parking signs and line marking of the bay. Council may at its discretion undertake a 6-month delay in the installation of line marking to ensure operators long term viability of the approved spaces
- Operators are responsible for submitting planning permit applications for all promotional and information signs associated with the car share bay subject to relevant approvals by Council (if required).
- iii) Data must be provided to Council (Quarterly) on the utilisation of each space including the total number of members in the LGA and the number of trips being made from each space.
- iv) Vehicles should be clearly identifiable as being part of a particular car share organisation.
- Inform Council of all locations where vehicles are available on street and off-street, including those outside of dedicated bays (if applicable).
- Vi) Identify a potential location for a new dedicated on-street bay based upon current or potential demand; the operator will then apply to Council for the creation of a new bay through Council's Local Traffic Committee.

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COUNCIL OBLIGATIONS AND REGULATORY FRAMEWORK

- Car share spaces that are nominated at locations in close proximity to land uses including local attractors such as retail areas and transport nodes such as railway stations will be given priority in the interest of maximising the potential of car sharing in the LGA.
- ii) In recognition of the importance of dedicated on-street spaces for car sharing in ensuring its effectiveness, Council will endeavour to provide space on-street in areas of demand to enable approved schemes to grow. Each new dedicated space will be required to be approved by Council's Local Traffic Committee; this will include a requirement for consultation with all affected residents/businesses within the immediate vicinity or in Council owned car parks.-It is envisaged that all car share spaces in the LGA will be dedicated bays (on-street fixed spaces).
- iii) Council will provide dedicated on-street spaces for authorised car share operators in accordance with the RMS TTD 2018/001 'Guidelines for the implementation of onstreet car share parking' or the most up to date guidelines at the time of installation.
- iv) Council will provide dedicated off-street spaces in Council-owned car parks where appropriate.
- v) Council will permit the parking of authorised car share vehicles in nominated car share spaces via installed signs indicating "No parking car share vehicles excepted".
- vi) Signage to be installed at each car share space will be in line with the Australian Road Rules 2008 and will clearly indicate the car share organisation vehicles that are eligible to park in the aforementioned spaces.
- vii) Council reserves the right, in its absolute discretion, to reject any application for an on-street (or off-street when in a Council-owned car park) car share space.
- viii) Council will include patrols of the car share spaces in the daily tasking of Traffic Rangers with appropriate regulatory action being taken where necessary.
- ix) Council will publish annual usage summaries of car share vehicles by precinct or suburb. Detailed reports will be treated as commercially confidential for two years from the date on which the reports are due to Council.

CAR SHARE AGREEMENT

All Car Share Schemes provided on public land and car parks in Hornsby Shire LGA will be subject to Council approval and agreement. The Car share agreement with an operator will be for a period of four (4) years with the option for renewal.

PRIVATE DEVELOPMENTS AND PRIVATE OFF-STREET PARKING AREAS

Council may require private developers to provide Car Share Schemes in line with sustainable transport options to offset the number of car parking spaces that would be required in medium/high

Page 6 of 7 Date printed: 13/3/20 density developments. This will be subject to Development Application (DA) approval and will be determined on a case-by-case basis at DA stage.

The preferred arrangements for the provision of dedicated car share spaces are as follows:

- Off-street space within a new development at-grade and at a visible location (i.e. within an internal road);
- Off-street space within the car park of a new development whilst remaining accessible to non-residents/tenants.

INSTALLATION, MAINTENANCE AND REMOVAL

To provide consistency across the Shire, installation, maintenance and removal of Car Share Parking is the responsibility of Council, unless by prior agreement with the Scheme operator. This includes ancillary infrastructure such as line marking, signage, pavement marking, lighting and the like, and the future reinstatement of the site if required/proposed.

The cost incurred by Council will be included in the Application Fee charged to operators.

NON-COMPLIANCE WITH POLICY

In the case of non-compliance with obligations outlined in this Policy, Council may, suspend or revoke any or all spaces assigned to an operator, or suspend an operator's eligibility to apply for additional spaces.

Authority to take action for non-compliance rests with the General Manager. Operators will be given an opportunity to make representations prior to any action for non-compliance with this Policy. In case of the revocation of spaces, the General Manager is authorised to reallocate spaces to an alternative operator.

CANCELLATION

If, due to unforeseen circumstances, Council needs to relocate or suspend a car share bay, Council will work with the relevant car share operator to find a suitable alternative location. The costs of new signage and line marking will be covered by Council in such circumstances.

In the instance that an alternative site is unable to be located, the car share operator or any other person will not be entitled to any payment, compensation or damages of any kind from Council.

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POLICY REGISTER

Policy TITLE:	SUSTAINABLE POLICY FOR COUNCIL ASSETS		
Folder Number:	F2007/00307		
POLICY OWNER / DIVISION:	Environment & Human Services DivisionOffice of the General Manager		
POLICY OWNER / BRANCH:	Natural ResourcesStrategy and Place		
FUNCTION:	Sustainability		
RELEVANT LEGISLATION:	NSW Local Government Act 1993		
POLICY ADOPTION/AMENDMENT DATE:	12 September 201811 May 2022 REPORT NUMBER: EHS16/18CS4/22		
REVIEW YEAR:	202 <u>4</u> 1		
Amendment History:	10 November 2004 – EN65/04 8 November 2006 – EN51/06 9 December 2009 – EN38/09 20 October 2010 - EN 47/10 15 May 2013 – EH5/13 9 SEPTEMBER 2015- EH8/15 12 SEPTEMBER 2018 – EHS16/18		
RELATED POLICIES:	NSW GOVERNMENT RESOURCE EFFICIENCY POLICY NSW CLIMATE CHANGE POLICY FRAMEWORK 2016 NSW GOVERNMENT NET ZERO PLAN STAGE 1 2020-2030 NSW WASTE AND SUSTAINABLE MATERIALS STRATEGY 2041 GREATER SYDNEY COMMISSION'S NORTHERN DISTRICT PLAN RESILIENT SYDNEY- A STRATEGY FOR CITY RESILIENCE 2018 YOUR VISION YOUR FUTURE: HORNSBY SHIRE COMMUNITY STRATEGIC PLAN 2018-20282022-2032 HORNSBY SHIRE COUNCIL DELIVERY PROGRAM 2018-20212022-2026 SUSTAINABLE HORNSBY 2040 CLIMATE WISE HORNSBY PLAN 2021 HORNSBY SHIRE COUNCIL SUSTAINABLE PROCUREMENT DETERMINATION HORNSBY SHIRE COUNCIL WATER QUALITY AND CONSERVATION POLICY		

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1.0 Introduction

This code-Policy has been developed to integrate sustainabilityle energy and water management principles into the planning, design, construction and purchase of all new and refurbished Council assets that consume energy regardless of value. This Policy aims to contribute to Council's target of net zero emissions by 2050reduce Council's operating costs and lead by example in increasing the energy and water efficiency of Council assets, install renewable energy generation, reduce the embodied energy of materials used and support the circular economy through reused and recycled materials.

This Policy applies to new or refurbished built assets, plant and equipment, in the following asset classes:

- Buildings and other structures
- Bushland and natural assets
- New and refurbished property assets.
- New plant and equipment.
- Parks, landscapes and recreational assets
- Sportsgrounds and Ovals
- Roads, car parks and footpaths
- Stormwater drainage
- Traffic facilities, road signs and traffic barriers
- Waste assets
- Water quality assets

This Policy is guided by Council's Sustainable Hornsby 2040 strategies and net zero by 2050 target. It is underpinned by the principle of ecologically sustainable development. The environmentally sustainable outcomes sought include:

- A reduction in greenhouse gas emissions (both embodied and operational);
- Reduction in consumption of energy and potable water;
- Increasing use of stormwater and rainwater; and
- The prioritisation of reused and/or recycled content materials.

The inclusion of energy efficient and water saving measures may lead to an increase in capital costs. However, these will be offset by lower running costs and are likely to be further offset by improved amenity, reduced maintenance and lower capital costs of other building elements. Regardless, Council has an obligation to reduce its emission of greenhouse gases and reduce water consumption and is prepared to incur additional costs to achieve this.

2.0 Objectives

The objectives of this Policy are to:

- <u>Meet Address the outcome within thelong-term goals of the</u> Hornsby Shire Community Strategic Plan 202248-203228 primarily focusing on 'We will minimise our footprint and transition to net zero'of. The Shire is resilient and able to respond to climate change events and stresses'.
 - Meet the objectives of the Sustainable Hornsby 2040 strategies, including:
 - Reduce Council's greenhouse gas emissions to net zero by 2050 and reduce Council's vulnerability to a changing climate (Climate Wise Hornsby Plan);
 - o Transition to a water sensitive city (Water Sensitive Hornsby Strategy); and
 - Achieve the 80% resource recovery target and support the circular economy.
- Assist Council to achieve a cap on total greenhouse gas emissions of 7,070 tCO₂ by 2019/2020 (a 30% reduction below 1995/96 emission levels).
- Guide and build capacity of Council staff and consultants on the incorporation of sustainable energy management—ilty principles and practices into asset design, construction, maintenance — and procurement.
- Maximise the flexibility of designers to achieve sustainable energy and water management outcomes.
- Create assets that minimise energy and potable water consumption and promote renewable energy and non-potable water alternatives.
- Build assets that promote the circular economy through the use of recycled content, reused, salvaged, locally made or lower embodied energy materials.

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- . Continue to implement Council's data management software, with the training of Asset Managers.
- Meet our Cities Power Partnership pledges.
- Ensure all Asset Management Plans comply with this policy
 - Ensure the installation of water efficient appliances to comply with Council's commitment to resources efficiency as stipulated in the Hornsby Shire Council Delivery Program 2018-2021

3.0 GuidelinesGuiding Principles and Requirements

The following is a list of <u>sustainabsustainability le energy and water management principles and</u> requirements that are to be considered in the implementation of all new <u>or refurbished assets (as listed in</u> section 1.0) regardless of value, location or use. Frior to the scoping and/ or concept stage of any new, refurbished and replacement assets, Council's Sustainability Team is to be consulted regarding the Policy.

All new buildings must achieve a minimum 5 star rating, for 'Design and as Built' and 4 star 'Building Performance' phases, under the Green Building Council of Australia Green Star Rating Tool or a 5 star NABERS rating.

All projects must consider the following and document the decision-making rationale:

Incorporate passive solar design to maximise daylighting and passive heating and cooling opportunities.

All Buildings, Parks, Sports Grounds and Ovals

Must incorporate passive solar design to maximise daylighting and passive heating and cooling opportunities.

- Must-lincorporate energy efficient equipment and design to minimise lighting, and minimise active heating and cooling requirements.
- Must-Ooptimise opportunities to use renewable energy sources and incorporate renewable energy technologies wherever possible.
- <u>Must-Mminimise</u> embodied energy in construction materials<u>1 or source materials with an Environmental</u> <u>Product Declaration</u>².
- Ensure All domestic hot water systems are shall beenergy efficient electric systems (e.g. heat pumps)investigated for solar.
- All new or replacement water using appliances must <u>C</u>comply with the minimum WELS star rating, dependent on appliance type, as stipulated in Appendix 1.
- All buildings must provide a means of monitoring energy and water consumption data that can be utilised by Council's data management software.
- Upgrades of electrical meters/ boards are to be undertaken to allow for the installation of energy efficient
 and renewable technologies when required.
 - Optimise alternative water supply while ensuring public health is not compromised.
 - Installation of energy efficient and renewable technologies.
 - Maximise re-used and recycled content materials, and the incorporation of low embodied energy or locally made materials if a suitable product is available.
 - Transition away from gas and move to all electric buildings.

Major Buildings (any building that consumes more than 160MWh per year³¹)

All major buildings must also:

¹ Embodied energy is a calculation of all the energy that is used to produce a material or product, e.g. bricks or timber have low embodied energy and steel has high (www.yourhome.gov.au/materials/embodied-energy)

² An Environmental Product Declaration includes information about the life-cycle environmental impact of a product and a verified carbon footprint (https://epd-australasia.com/).

³ As determined by electricity retailers for Installation of Smart Meters

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- Provide efficient control and effective maintenance systems that incorporate monitoring of energy consumption_
- The buildings must provide a means of monitoring energy and water consumption data that can be
 utilised by Council's Greensense software.
- Include ilnstallation of a Building Management System.

⁴As determined by electricity retailers for Installation of Smart Meters

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<u>-Minimum Standards for New Electrical Equipment</u>

All new electrical equipment purchased must comply with high efficiency standards specified the NSW Government Resource Efficiency Policy. Refer to the Appendix 1 for the minimum standards for all new electrical equipment.

Minimum standards for water fixtures

All new water-using appliances purchased must comply with minimum standards outlined in Appendix 1.

4.0 Requirements

The following requirements of the Policy apply to all capital works projects regardless of value, location or use:

- 1. Prior to the scoping and/ or concept stage of any new, refurbished and replacement facilities, Council's Sustainability Team is to be consulted regarding the Policy.
- All new, refurbished and replacement facilities (including buildings) must achieve a minimum 4.5 star rating, for 'Design and as Built' and 'Building Performance' phases, under the Green Building Council of Australia Green Star Rating Tool.
 - Designers may use any methods to achieve this target, including energy efficiency, fuel substitution and/or renewable energy systems. All developments must take into consideration climate change and factor in resilient design and materials.
- 3. All new, refurbished or replacement plant and equipment must have a high star rating or provide evidence that it is more energy/water efficient than conventional plant and equipment.
- 4. All new major building projects must have an independent review of greenhouse emitting inclusions, including financial assessments, before construction approval is granted. These reviews must be carried out by a suitably qualified energy consultant.
- 5. Any modification of plant and/or equipment using more than 20% of the energy consumption in a major building must also have an independent review.

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The fo	llowing minimum standards are from the NSW Government Resources Efficiency Policy.
Minim	um Standards for Water-using Appliances
	ances and equipment in the following categories with star ratings under the Water
Efficie	ncy Labelling Scheme (WELS) must have at least the following star ratings:
	 showerheads – 3.5 stars toilets and urinals – 4 stars
	• washing machines – 4.5 stars
	• dishwashers – 54 stars
	 taps and flow controllers – 4.5 stars.
	Star rating benchmarks will be evaluated over a two-year cycle to ensure the policy keeps
	pace with market improvements.
Minim	um Standards for New Electrical Appliances and Equipment.
	ances and equipment purchased in the following categories with star ratings under the
Greer	house and Energy Minimum Standards (GEMS) will be at least the following:
	 refrigerators – 2.5 stars clothes dryers (up to 10kg) – 2.53 stars
	• washing machines – 3.5 stars
	• dishwashers – 4 stars
	• pool pumps – <u>7.5</u> 5 stars
	 fridge/freezers – <u>32</u>.5 stars
	• freezers – <u>32.5</u> stars
	 air-to-air heat pumps and air conditioners – <u>43.5</u> stars if less than 4kW and <u>32.5</u> stars if greater than 4kW (applies to both heating and cooling for reverse cycle airconditioners)
	 televisions – 54 stars (Tier 2 rating).
	Equipment in the following categories will be endorsed as being high efficiency rating under
	ENERGY STAR® in Australia: • computers (i.e. desktops, notebooks and tablets, workstations, small-scale servers and
	thin clients)
	• printers
	fax machines
	photocopiers
	DVD players.
	Equipment in the following categories will meet the definition of 'high efficiency' under
	Greenhouse and Energy Minimum Standards:
	 refrigerated commercial display cabinets – AS1731.14
	distribution transformers – AS2374.1.2
	 electric motors – AS1359.5 external power supplies – AS4879.2.
	ontornal power supplies - Astrono.c.
	Equipment in the following categories will meet the following performance benchmarks:
	Equipment in the following categories will meet the following performance benchmarks: • air-cooled liquid chilling packages – IPLV of 4.5 <u>1</u> • water-cooled liquid chilling packages – IPLV of 9.6

*NSW Government Resources Efficiency Policy.

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POLICY REGISTER

	LEASE FINANCING	
Folder Number:	F2007/00307	
POLICY OWNER / DIVISION:	Corporate Support Division	
POLICY OWNER / BRANCH:	Financial Services	
FUNCTION	Finance	
RELEVANT LEGISLATION:		
POLICY ADOPTION/AMENDMENT DATE:	X April 20228-August 2018 REPORT NUMBER: XXXX/22	
REVIEW YEAR:	2021	
Amendment History:	14 July 1999 (Report CC55/99) 10 May 2000 (Report GM10/00) 9 March 2005 (Report CC5/05) 11 April 2007 (Report CC11/07) 8 April 2009 (Report CC12/09) 20 April 2011 (Report CC10/11) 17 April 2013 (Report GM2/13) 8 April 2015 (Report CS6/15) 8 August 2018 (Report CSS33/18)	

POLICY PURPOSE / OBJECTIVES:

To utilise where appropriate, operating lease finance in respect of acquiring equipment which has a significant risk of technological obsolescence and in addition, motor vehicles.

POLICY STATEMENT:

- Equipment with a significant risk of technological obsolescence includes and is mostly limited to information technology equipment such as personal computers, file servers, printers, telephone equipment, survey equipment, global positioning systems etc. Motor vehicles may be leased in appropriate circumstances.
- <u>2</u>2. Council will not enter into new finance leases. A finance lease "means a lease which effectively transfers from the lessor to the lessee substantially all the risks and benefits incident to ownership of the leased property" [(Australian Accounting Standard Board) AASB 117 " Leases"].

Page 1 of 2 Date printed: X April 20228-August 2018 Such leases require asset and liability recognition in the Statement of Financial Position and lease payments to be applied proportionally against the lease liability and interest expense.

3. All new leases are to be accounted for in line with the requirements of Australian Accounting Standards Board 16 - Leases are to be operating leases in accordance with AASB 117. The key requirement of this standard include the recognition of a right of use asset and a lease liability on the Balance Sheet at lease commencement. As the lease term progresses and payments are made to the lessor these balances decrease and the impact to the Profit and Loss statement is recognised. An operating lease is "defined as a lease that is not a finance lease". This can be described as a lease under which the lessor effectively retains substantially all the risks and benefits incident to ownership of the leased property.

-Such leases do not require recognition in the Balance Sheet and lease payments are expensed as incurred.

- <u>34</u>. <u>The Profit and Loss statement impact of All-lease repayments will be charged directly or indirectly to the cost centre benefiting from the use of the leased equipment.</u>
- <u>45</u>. Decisions on the acquisition of plant are made on a case by case basis following a proper cost benefit analysis of alternative acquisition strategies, having regard to this policy objective, the level of materiality and utilisation of relevant Restricted Asset Accounts e.g. Corporate Systems Upgrade and Plant Replacement.
- <u>56.</u> No items of equipment with a capital cost less than \$30,000 other than information technology equipment and motor vehicles will be leased unless approved by the General Manager.
- 67. Council's Tendering Policy and Procedures are to be complied with.
- 78. All proposed lease documentation other than for IT equipment is to be reviewed by Council's solicitor.
- 89. A Master Lease Agreement has been arranged by Local Government Procurement to facilitate the procurement of information technology equipment by way of an approved, centralised IT operating lease facility.



POLICY REGISTER

POLICY TITLE:	ASSET MANAGEMENT			
FOLDER NUMBER:	F2007/00307			
POLICY OWNER / DIVISION:	Corporate Support	Corporate Support Division		
POLICY OWNER / BRANCH:	Financial Services	Financial Services		
FUNCTION:	Asset Managemen	Asset Management		
RELEVANT LEGISLATION:	Local Government	Local Government Act <u>1993</u>		
POLICY AMENDMENT DATE:	X April 202214 Nev XXX/22 IR9/18	X April 202214 November 2018 XXX/22IR9/18		
REVIEW YEAR:	202 <u>2</u> 4			
AMENDMENT HISTORY:	17 March 2010 15 June 2011 18 December 2013 9 Sentember 2015	(WK12/10) (WK15/11) (IR26/13) (IP27/15)		
	9 September 2015 9 December 2018	(IR27/15) (IR9/18)		

RELATED POLICIES/PLANS:

POLICY PURPOSE/OBJECTIVES:

This policy establishes the approach to the physical and financial management of a framework for the sustainable management of CCouncil's Infrastructure Assets in a sustainable manner to meet the needs of the to reflect reasonable community expectations of time, quality and value for money.

POLICY STATEMENT:

1. Scope

This policy applies to all Infrastructure Assets owned by Council.

2. Definitions

<u>Asset Register – A record of data relating to an asset. This may include physical, historical, financial, condition, construction, technical and financial data.</u>

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<u>Infrastructure Asset Management Plan – A comprehensive document developed for each asset</u> class detailing the current state of the portfolio and how Council intends to balance the asset class expenditure requirements with community expectations over the medium to long term.

Infrastructure Assets – includes <u>all acquired</u>, constructed or installed resources under the care and control of Council that fall within the following classes (or as otherwise agreed by Exco):

 <u>Rinfrastructure assets that fall within the following asset classes: Road reserve infrastructure</u> (road pavements, footpaths, kerb and gutter, bridges);

- Traffic facilities (guard rails, traffic fences, pedestrian refuges);
- <u>S</u>s, Stormwater <u>d</u>Prainage (pipes, pits, headwalls);
- Council-owned buildings and structures (community centres, libraries, amenities);
- Land improvements (playgrounds, BBQs, picnic shelters, foreshore facilities); and
- Water quality assets (bio-basins, gross pollutant traps, sediment basins, Open Space, Public Buildings, Leisure Facilities and Foreshore Facilities, or as otherwise agreed by ExCo.

Lifec-Cycle – The <u>stages that an as</u>cycle of uses that an asset <u>progressesgees</u>_through during its <u>usefulservice</u>_life_from planning to replacement/disposal.

Lifec-Cycle Cost – The total cost across all phases of an assets useful life including:

- of an asset throughout its service life including pPlanning and design, design,;
- Acquisition/-construction;
- <u>acquisition</u>, oOperation and, maintenance;
- <u>D</u>-disposal-costs.

Predictive Modelling – Use of asset-deterioration models and/<u>or</u>-condition monitoring to <u>assist</u> in the more accurate forecasting of asset predict asset condition or performance changes with use to plan its maintenance and renewal <u>costs and activities</u>.

Asset Register – A record of data relating to an asset. This may include physical, historical, financial, condition, construction, technical and financial data.

Useful Life – The period <u>of time</u> over which an asset is expected to provide a specified level of service <u>before requiring replacement</u>.

Infrastructure Asset Management Plan – A plan developed for the management of an infrastructure asset or asset class that combines multi-disciplinary management techniques (including technical and financial) over the lifecycle of the asset. The Asset Management Plan establishes, for each Asset Class:

- Levels of Service (performance, construction, maintenance, and operational standards)
- Future Demand (rational basis for demand forecasting and selection of options for proposed new assets)
- Life Cycle Management Plan (including Operations and Maintenance, Renewals and Replacements, and Enhancement and Upgrades)

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- Financial Projections
- Asset Management Practices
- Performance Monitoring and Improvement

3. Corporate Framework

Council's Asset Management Policy creates a framework for the efficient and effective provision of community infrastructure. By adopting a structured approach to asset management, principles and methodology, Council will achieve significant benefits including:

- Clear direction and "ownership" of Asset Management
- A guide to better and more informed decision-making by Council, staff and community
- The integration of resources, knowledge and the ability to plan for the present and future generations
- An appreciation of the community's reasonable needs and expectations
- Better management of Council's risk
- Compliance with integrated planning requirements

4.3. Policy

4.33.1 -Understanding Customer Expectations

- <u>Councils use of infrAll Infrastructure to provide services to the community will be regu</u> Services will be regularly reviewed (prioritised by service type) to ascertain the <u>c</u>Community's reasonable expectations and desired service standards; and
- Council will <u>continue community</u>_consult <u>with the community</u>ation_to understand <u>changes in</u> community needs and <u>to</u> measure <u>current</u> service delivery performance.

4.43.2 Asset Planning and Budgeting

- Council will utilise life cycle cost analysis for the management of <u>existing</u> infrastructure assets;
- New <u>c</u>Capital <u>w</u>Works and capital renewal works will be assessed <u>using a combination of en</u> <u>life cycle cost using combination of technical and financial criteria to forecast the total lifecycle</u> <u>cost for capital works; and</u>
- Council will regularly review its assets and identify opportunities for asset rationalisation in accordance with current and predicted community need
- 4**.5**3.3

Asset Operations and Maintenance

- Operational expenditure will be prioritised to ensure that infrastructure assets are available for use in line with community expectations; Maintenance plans will be developed based on asset condition data
- Wherever possible, predictive modelling will be used to develop and implement annual maintenance programs to ensure that lowest net life cycle cost of the assets is <u>achievedachieved</u>, and asset service potential is optimised. Where predictive modelling is

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not possible or appropriate for the asset type, maintenance plans will be informed using actual asset condition data.

 Assets constructed for or provided to Council by third parties shall be assessed in accordance with this Policy prior to acceptance

4.63.4 Risk Assessment and Management

- Council will maintain a program of regular inspection of assets under its control <u>based on</u> priority and community expectation to minto minimise risk to the community.
- Council will maintain an Occupational Health and Safety system (including safe work method statement and risk assessment) for its employees and contractors working on Council assets

4.73.5 Asset Accounting and Costing

Council will maintain_itemised_-detailed_aasset registers of all owned Infrastructure assets. Assets will be financially accounted for in line with the requirements of Australian Accounting Standards Board (AASB) 116 – Property, Plant and Equipment.

- •
- Useful lives will be given to each of these assets with the written down value and depreciation
 value determined in accordance with the current applicable accounting regulations.
- Depreciation charges will be calculated using a method that reflects the true consumption of the asset, or is an indication of the future cash flows necessary to sustain asset condition and maintain the required service level. Wherever possible, a condition based depreciation method will be used to determine written down value.
- Council will maintain appropriate costing records to assist with the determination of total cost of infrastructure asset service delivery.

3.6 Asset Management Strategy and Asset Management Plans

- Council will develop and maintain an asset management strategy detailing the methodology for compilation and ongoing review of the infrastructure asset management plan. The strategy will specify the relationship of the infrastructure asset management plans to Council's adopted integrated planning documents.
- Infrastructure asset management plans are to be maintained for each Asset Class and regularly reviewed and updated to accurately inform Council's Long Term Financial Plan and annual budgeting processes.
- The infrastructure asset management plans will address the following:
 - Physical review of the infrastructure (condition assessment);
 - o Financial review of the portfolio;
 - Assessment of community expectations and future demands;
 - Forward works programs;
 - o Corporate and financial risk management; and
 - o Identified areas for asset management plan improvement and monitoring.
- 4. Asset Management Roles and Responsibilities

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4.8 <u>The management of Council's assets will be the duty of those positions in Council as designated within the adopted "Asset Management - Roles and Responsibilities Determination" (POL00480). The determination is to be regularly reviewed and updated. Asset Management Plans and Strategy</u>

Council will maintain Infrastructure Asset Management Plans developed for each asset class.

• The Infrastructure Asset Management Plans will be regularly reviewed to reflect best practice.

• Council will prepare an asset management strategy to assist in the development and continuous improvement of its infrastructure asset management plans, and their relationship to other integrated planning documents.

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ITEM

ATTACHMENT 2 -

To a	chieve this policy the following key roles and responsibilities and commitments are identified:
5.1 (Council
•	To act as stewards for infrastructure assets.
	To set corporate Asset Management policy and vision with linkage to the Community egic Plan.
•	To set levels of service, risk and cost standards.
• avail	To ensure appropriate resources and funding for Asset Management activities are made able to integrate Asset Management into the corporate governance framework.
5.2-1	Executive Committee (ExCo)
	To review Asset Management Policy and links to the Community Strategic Plan, Delivery ram and Operational Plan
• reso	To implement and support the Asset Management Policy and Strategy with sufficien arces.
•	To monitor the performance of the staff engaged in implementing asset management.
• stake	To ensure the reasonable expectations and requirements of the community and key cholders are integrated into the Infrastructure Asset Management Plans.
•	To approve and review Infrastructure Asset Management Plans.
• mak	To ensure that timely, accurate and reliable information is presented to council for decision ing.
6.	
•	Local Government Act
•	- Division of Local Government Planning and Reporting Manual
•	
•	Asset Management Strategy
•	Infrastructure Asset Management Plans

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POLICY REGISTER

POLICY TITLE:	RESTRICTED ASSET ACCOUNT – WASTE RESERVE		
FOLDER NUMBER:	F2022/00118		
POLICY OWNER / DIVISION:	Corporate Support Division / Community and Environment Division		
POLICY OWNER / BRANCH:	Financial Services Branch / Waste Management Branch		
FUNCTION:	Waste Management		
RELEVANT LEGISLATION:	Local Government Act 1993		
POLICY ADOPTION/AMENDMENT DATE:	11 May 2022	REPORT NUMBER: CS4/22	
REVIEW YEAR:	2025		
AMENDMENT HISTORY:	NA - New Policy		
	NA		

POLICY PURPOSE / OBJECTIVES:

1. To ensure the appropriate management of a Waste Reserve Restricted Asset Account.

POLICY STATEMENT:

- Council will maintain a restricted asset account within the means of the Local Government Act 1993 known as the Waste Reserve Restricted Asset Account.
- The Waste Reserve Restricted Asset Account will hold adequate funds for the appropriate management of its long-term domestic waste management functions.
- 3. The Waste Reserve Restricted Asset Account funds on hand will hold up to:
 - I. 7.5% value of all domestic waste management service outsourced contracts, for contract over expenditure and unbudgeted contract expense contingency (an estimated \$1.8M in 2022-23)
 - II. 7.5% value of all domestic waste management services outsourced contracts, for unforeseen contract variations and or claims (an estimated \$1.8M in 2022-23)
 - III. \$750,000 funds for one-off non-recurrent domestic waste management projects or initiatives
 - IV. \$9,500,000 funds for domestic waste management property bin asset stock replacement and renewal

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- V. \$10,000,000 funds for the ongoing care, maintenance, rehabilitation, remediation and associated works or activities for historical legacy landfills
- 4. The Waste Reserve Restricted Asset Account will derive its income from planned surplus budget funds from the Domestic Waste Management Charge (Section 496 - Local Government Act 1993). This income may be augmented through the quarterly budget review process as required from time to time.
- 5. The General Manager will assign responsibilities as required to ensure the proper operation of the Waste Reserve Restricted Asset Account.
- The Waste Reserve Restricted Asset Account will subsist indefinitely or until Council resolves to cease operation of the Account and only apply any residual monies in the Account to Domestic Waste Management Services on a restricted basis.

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POLICY REGISTER

ITEM

POLICY TITLE:	STATUTORY - COUNCILLORS' EXPENSES AND FACILITIES		
	F2007/00307		
POLICY OWNER / DIVISION:	Corporate Support Division		
POLICY OWNER / BRANCH:	Governance and Customer Service		
FUNCTION:	Councillors		
RELEVANT LEGISLATION:	Local Government Act 1993 (Section 252) Local Government (General) Regulation 2005		
POLICY ADOPTION/AMENDMENT DATE:	8 August 2018 11 May 2022 REPORT NUMBER: CS4/22 CS34/18 CS34/22		
REVIEW YEAR:	2021<u>2024</u>		
Amendment History:	14 October 1998 (Report No. CC126/98) 8 March 2000 (Report No. CC18/00) 11 July 2001 (Report No. CC50/01) 13 November 2002 (Report No. CC110/02) 9 March 2005 (Report No. CC5/05) 8 November 2006 (Report No. CC66/07) 11 April 2007 (Report No. CC11/07) 14 November 2007 (Report No. CC100/07) 9 December 2009 (Report No. CC96/09) 17 November 2010 (Report No. CC65/10) 21 September 2011 (Report No. CC34/12) 17 April 2013 (Report No. CC34/12) 17 April 2013 (Report No. CS34/13) 8 October 2014 (Report No. CS31/14) 8 April 2015 (Report No. CS40/15) 14 March 2018 (Report No. NOM4/18)		
RELATED POLICIES:	Councillors Employees and Volunteers – Legal Assistance an Insurance Protection		

ATTACHMENT 2 -

This Policy has been based on the Template issued by the Office of Local Government as per their Circular No. 17/17. Where additional information has been included outside the Template, it is preceded by the words "Additional clause adopted by Council." Where deletions have been made from the Template these remain within the document but shown in strikethrough.

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Appendix I - Related legislation, guidance and policies

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Policy summary

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

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

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

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

The main expenses and facilities are summarised in the table below. All monetary amounts are exclusive of GST.

Expense or facility	Maximum amount	Frequency
General travel expenses (other than travel associated with Conferences and Professional Development)	\$5, 000-<u>250</u>total for all Councillors	Per year
Interstate, overseas and long distance intrastate travel expenses	\$0	Per year
Accommodation and meals	As per the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, adjusted annually	Per meal/night
Professional development (includes associated travel and subsistence where applicable)	\$ <mark>30,000<u>31,500</u> total for all Councillors</mark>	Per year
Conferences and seminars (includes associated travel and subsistence where applicable)	\$35,00036,700 total for all Councillors (Increased to \$50,00051700in the years where the LGNSW Conference is held outside the Sydney metropolitan region.)	Per year
ICT expenses	\$4, 500-<u>750</u> per Councillor	Per year (first year of election
	\$2, 500 _ <u>650</u> per Councillor	

Expense or facility	Maximum amount	Frequency
		Per year (following years of election)
Carer expenses	\$2, 000-<u>100</u>per Councillor	Per year
Home office expenses (equipment and facilities other than stationery)	\$ <mark>300-<u>350</u> per Councillor</mark>	Per year
Stationery	\$3, 000-<u>150</u>total for all Councillors	Per year
Postage stamps	Provided by Council	Not relevant
Christmas or festive cards	\$ <u>1</u> 500 for the Mayor \$500 total for all other Councillors	Per year
Access to facilities in a Councillor common room	Provided to all Councillors	Not relevant
Council vehicle and fuel card	Provided to the Mayor	Not relevant
One reserved parking space at Council offices One shared parking space at Council offices	Provided to the Mayor Shared by all Councillors	Not relevant
Furnished office	Provided to the Mayor	Not relevant
Number of exclusive staff supporting Mayor and Councillors	Provided to the Mayor and Councillors	Тwo
Spousal attendance at conferences	\$1, <u>000-050</u> for the Mayor \$ <u>500-550</u> per Councillor	Per year
Attendance at non-Council functions	\$1, 000-<u>050</u> for the Mayor \$<u>500-550 p</u>er Councillor	Per year

Additional note from Council.

The \$ amounts shown in this Policy will be increased by CPI on 1 July each year.

Additional costs incurred by a Councillor in excess of these limits are considered a personal expense that is the responsibility of the Councillor.

Councillors must provide claims for reimbursement within three months of an expense being incurred. Claims made after this time cannot be approved.

Detailed reports on the provision of expenses and facilities to Councillors will be publicly tabled at a council meeting every six months and published in full on council's website. These reports will include expenditure summarised by individual Councillor and as a total for all Councillors.

Part A – Introduction

1. Introduction

- 1.1. The provision of expenses and facilities enables Councillors to fulfil their civic duties as the elected representatives of Hornsby Shire Council.
- 1.2. The community is entitled to know the extent of expenses paid to Councillors, as well as the facilities provided.
- 1.3. The purpose of this policy is to clearly state the facilities and support that are available to Councillors to assist them in fulfilling their civic duties.
- 1.4. Council staff are empowered to question or refuse a request for payment from a Councillor when it does not accord with this policy.
- 1.5. Expenses and facilities provided by this policy are in addition to fees paid to Councillors. The minimum and maximum fees a council may pay each Councillor are set by the Local Government Remuneration Tribunal as per Section 241 of the Act and reviewed annually. Council must adopt its annual fees within this set range.

2. Policy objectives

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

3. Principles

- 3.1. Council commits to the following principles:
 - **Proper conduct:** Councillors and staff acting lawfully and honestly, exercising care and diligence in carrying out their functions
 - Reasonable expenses: providing for Councillors to be reimbursed for expenses
 reasonably incurred as part of their role as Councillor
 - **Participation and access:** enabling people from diverse backgrounds, underrepresented groups, those in carer roles and those with special needs to serve as a Councillor

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- Equity: there must be equitable access to expenses and facilities for all Councillors
- Appropriate use of resources: providing clear direction on the appropriate use of council resources in accordance with legal requirements and community expectations
- Accountability and transparency: clearly stating and reporting on the expenses and facilities provided to Councillors.

4. Private or political benefit

- 4.1. Councillors must not obtain private or political benefit from any expense or facility provided under this policy.
- 4.2. Private use of council equipment and facilities by Councillors may occur from time to time. For example, telephoning home to advise that a council meeting will run later than expected.
- 4.3. Such incidental private use does not require a compensatory payment back to council.
- 4.4. Councillors should avoid obtaining any greater private benefit from Council than an incidental benefit. Where there are unavoidable circumstances and more substantial private use of council facilities does occur, Councillors must reimburse the council.
- 4.5. Campaigns for re-election are considered to be a political benefit. The following are examples of what is considered to be a political interest during a re-election campaign:
 - production of election material
 - use of council resources and equipment for campaigning
 - use of official council letterhead, publications, websites or services for political benefit
 - fundraising activities of political parties or individuals, including political fundraising events.

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Part B – Expenses

5. General expenses

- 5.1. All expenses provided under this policy will be for a purpose specific to the functions of holding civic office. Allowances for general expenses are not permitted under this policy.
- 5.2. Expenses not explicitly addressed in this policy will not be paid or reimbursed.

6. Specific expenses

General travel arrangements and expenses

- 6.1. All travel by Councillors should be undertaken using the most direct route and the most practicable and economical mode of transport.
- 6.2. Each Councillor may be reimbursed up to a total of \$[insert] per year, and the Mayor may be reimbursed up to a total of \$[insert] per year, A total amount for all Councillors of \$5,000-250 per year will be made available for travel expenses incurred while undertaking official business or professional development or attending approved conferences and seminars within NSW. This includes reimbursement:
 - for public transport fares
 - for the use of a private vehicle or hire car
 - for parking costs for Council and other meetings
 - for tolls
 - by Cabcharge card or equivalent
 - for documented ride-share programs, such as Uber, where tax invoices can be issued.
- 6.3. Allowances for the use of a private vehicle will be reimbursed by kilometre at the rate contained in the Local Government (State) Award.
- 6.4. Councillors seeking to be reimbursed for use of a private vehicle must keep a log book recording the date, distance and purpose of travel being claimed. Copies of the relevant log book contents must be provided with the claim.

Additional clause adopted by Council:

- 6.4A The expenses referred to in 6.1 6.4 will be paid from the Councillor's place of residence in respect of the below instances. (NB: This does not include travel expenses associated with attendance at Conferences and Seminars or Professional Development. Travel expenses associated with Conferences and Seminars and Professional Development are provided for within those categories.)
 - Attendance at any duly convened meeting of any organisation to which the Councillor claiming has been nominated or elected by resolution of Council, as an official Council representative.

- b) Attendance at site and other inspections relating to business before Council or as authorised by Council resolution.
- c) Attendance at all duly convened Council or Committee Meetings, at which the Councillor is entitled to attend.
- d) Attendance at Hornsby Council citizenship ceremonies.
- e) Attendance at all official Council or Council sponsored functions.
- f) Attendance at any public meeting or function where Council officers are officially in attendance or where Councillors are invited in an official capacity.
- g) Attendance at any function representing the Mayor.

Interstate, overseas and long distance intrastate travel expenses

- 6.5. In accordance with Section 4, Council will scrutinise the value and need for Councillors to undertake overseas travel. Councils should avoid interstate, overseas and long distance intrastate trips unless direct and tangible benefits can be established for the council and the local community. This includes travel to sister and friendship cities.
- 6.6. Total interstate, overseas and long distance intrastate travel expenses for all Councillors will be capped at a maximum of \$0 per year. No amount will be set aside in Council's annual budget for interstate, overseas and long distance travel expenses.

Additional clause adopted by Council:

- 6.6A Based on 6.5 above, no budget allocation is provided for interstate, overseas and long distance intrastate travel as it is not expected that this type of travel would generally be associated with a Councillor carrying out their civic functions. However, this does not preclude Councillors from requesting approval for such travel in accordance with clauses 6.5 6.14 of this Section.
- 6.7. Councillors seeking approval for any interstate and long distance intrastate travel must submit a case to, and obtain the approval of, the General Manager prior to travel.
- 6.8. Councillors seeking approval for any overseas travel must submit a case to, and obtain the approval of, a full council meeting prior to travel.
- 6.9. The case should include:
 - objectives to be achieved in travel, including an explanation of how the travel aligns with current council priorities and business, the community benefits which will accrue as a result, and its relevance to the exercise of the Councillor's civic duties
 - who is to take part in the travel
 - duration and itinerary of travel
 - a detailed budget including a statement of any amounts expected to be reimbursed by the participant/s.
- 6.10. For interstate and long distance intrastate journeys by air of less than three hours, the class of air travel is to be economy class.
- 6.11. For interstate journeys by air of more than three hours, the class of air travel may be premium economy.

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- 6.12. For international travel, the class of air travel is to be premium economy if available. Otherwise, the class of travel is to be economy.
- 6.13. Bookings for approved air travel are to be made through the General Manager's office.
- 6.14. For air travel that is reimbursed as council business, Councillors will not accrue points from the airline's frequent flyer program. This is considered a private benefit.

Travel expenses not paid by Council

6.15. Council will not pay any traffic or parking fines or administrative charges for road toll accounts.

Accommodation and meals

- 6.16. [Rural and regional councils may wish to include the following clause:] In circumstances where it would introduce undue risk for a councillor to travel to or from official business in the late evening or early morning, reimbursement of costs for accommodation and meals on the night before or after the meeting may be approved by the general manager. This includes where a meeting finishes later than 9.00pm or starts earlier than 7.00am and the councillor lives more than 50 kilometres from the meeting location. Not applicable to metropolitan councils.
- 6.17. Council will reimburse costs for accommodation and meals while Councillors are undertaking prior approved travel or professional development outside metropolitan Sydney.
- 6.18. The daily limits for accommodation and meal expenses within Australia are to be consistent with those set out in Part B Monetary Rates of the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as adjusted annually.
- 6.19. The daily limits for accommodation and meal expenses outside Australia are to be determined in advance by the General Manager, being mindful of clause 6.18.
- 6.20. Councillors will not be reimbursed for alcoholic beverages.

Additional clause adopted by Council:

6.20A The expenses referred to in 6.16 - 6.20 do not include accommodation and meals associated with attendance at Conferences and Seminars or Professional Development. Accommodation and meal expenses associated with Conferences and Seminars and Professional Development are provided for within those categories.

Refreshments for council related meetings

- 6.21. Appropriate refreshments will be available for council meetings, council committee meetings, Councillor briefings, approved meetings and engagements, and official council functions as approved by the General Manager.
- 6.22. As an indicative guide for the standard of refreshments to be provided at council related meetings, the General Manager must be mindful of Part B Monetary Rates of the NSW Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009, as adjusted annually.

Professional development

- 6.23. Council will set aside per Councillor a total amount for all Councillors of \$30,00031,500 annually in its budget to facilitate professional development of Councillors through programs, training, education courses and membership of professional bodies.
- 6.24. In the first year of a new council term, Council will provide a comprehensive induction program for all Councillors which considers any guidelines issued by the Office of Local Government (OLG). The cost of the induction program will be in addition to the ongoing professional development funding.
- 6.25. Annual membership of professional bodies will only be covered where the membership is relevant to the exercise of the Councillor's civic duties, the Councillor actively participates in the body and the cost of membership is likely to be fully offset by savings from attending events as a member.
- 6.26. Approval for professional development activities is subject to a prior written request to the General Manager outlining the:
 - details of the proposed professional development
 - relevance to council priorities and business
 - relevance to the exercise of the Councillor's civic duties.
- 6.27. In assessing a Councillor request for a professional development activity, the General Manager must consider the factors set out in clauses 6.5 6.12, as well as the cost of the professional development in relation to the Councillor's remaining budget.

Additional clause adopted by Council:

6.27A Where a Councillor elects not to attend Professional Development as provided in Section 6.23

 6.27 above, the Councillor may make application to the General Manager for the unused allocation of these funds to be provided for additional Conferences and Seminars over and above the annual limit prescribed in point 6.23 above.

Conferences and seminars

- 6.28. Council is committed to ensuring its Councillors are up to date with contemporary issues facing council and the community, and local government in NSW.
- 6.29. Council will set aside a total amount for all Councillors of \$35,00036,700 annually in its budget to facilitate Councillor attendance at conferences and seminars. This allocation is for all

Councillors. The General Manager will ensure that access to expenses relating to conferences and seminars is distributed equitably.

- 6.30. Approval to attend a conference or seminar is subject to a written request to the General Manager. In assessing a Councillor request, the General Manager must consider factors including the:
 - relevance of the topics and presenters to current council priorities and business and the exercise of the Councillor's civic duties
 - cost of the conference or seminar in relation to the total remaining budget.
- 6.31. Council will meet the reasonable cost of registration fees, transportation and accommodation associated with attendance at conferences approved by the General Manager. Council will also meet the reasonable cost of meals when they are not included in the conference fees. Reimbursement for accommodation and meals not included in the conference fees will be subject to clauses 6.18 6.21.

Additional clauses adopted by Council:

- 6.31A Where a Councillor elects not to attend Conferences and Seminars as provided in Section 6.28

 6.31 above the Councillor may make application to the General Manager for the unused allocation of these funds to be provided for additional Professional Development over and above the annual limit prescribed in point 6.29 above.
- 6.31B It is expected that the majority of Councillors will attend the Local Government NSW Annual Conference each year. Where this conference is held in locations outside the Sydney Metropolitan area the budget allocation for Conferences and Seminars for that year will be increased by \$15,000.

Information and communications technology (ICT) expenses

- 6.32. Council will reimburse Councillors for expenses associated with appropriate ICT devices and services up to a limit of \$2,500-650 per annum for each Councillor. This may include mobile phones and tablets, mobile phone and tablet services and data, and home internet costs.
- 6.33. Reimbursements will be made only for communications devices and services used for Councillors to undertake their civic duties, such as:
 - receiving and reading council business papers
 - relevant phone calls and correspondence
 - diary and appointment management.
- 6.34. Councillors may seek reimbursement for applications on their mobile electronic communication device that are directly related to their duties as a Councillor, within the maximum limit.

Additional clause adopted by Council:

6.34A It is reasonable to expect that ICT expenses will be greater in a Councillor's first year of term of office. As such, an additional amount of \$2,000-100 over and above that provided in 6.32 will be made available for each Councillor during their first year of term of office.

Special requirement and carer expenses

- 6.35. Council encourages wide participation and interest in civic office. It will seek to ensure council premises and associated facilities are accessible, including provision for sight or hearing impaired Councillors and those with other disabilities.
- 6.36. Transportation provisions outlined in this policy will also assist Councillors who may be unable to drive a vehicle.
- 6.37. In addition to the provisions above, the General Manager may authorise the provision of reasonable additional facilities and expenses in order to allow a Councillor with a disability to perform their civic duties.
- 6.38. Councillors who are the principal carer of a child or other elderly, disabled and/or sick immediate family member will be entitled to reimbursement of carer's expenses up to a maximum of \$2,000 <u>100</u> per annum for attendance at official business, plus reasonable travel from the principal place of residence.
- 6.39. Child care expenses may be claimed for children up to and including the age of 16 years where the carer is not a relative.
- 6.40. In the event of caring for an adult person, Councillors will need to provide suitable evidence to the General Manager that reimbursement is applicable. This may take the form of advice from a medical practitioner.

Home office expenses

6.41. Each Councillor may be reimbursed up \$300-350 per year for costs associated with the maintenance of a home office, such as minor items of consumable stationery and printer ink cartridges.

Additional clauses adopted by Council:

6.41A Items in relation to 6.41 above may include minor equipment and facilities such as a printer supplies, filing cabinet, briefcase etc, other than stationery. Stationery is provided for separately in sections 9.4 and 9.5.

Other Expenses

6.42. There may be limited instances where certain costs incurred by the Councillor on behalf of a spouse, partner, or accompanying person are properly those of the Councillor in the performance of his or her functions (hence they are properly incurred by and reimbursable to the Councillor). An accompanying person is a person who has a close personal relationship with a Councillor and/or provides carer support to the Councillor. Such functions would be those that a Councillor's spouse, partner or accompanying person could be reasonably expected to attend. Examples could include, but not be limited to, Australia Day award ceremonies, citizenship ceremonies, civic receptions, and charitable functions for charities formally supported by Council.

Attendance at Dinners and Other Non-Council Functions

- 6.43. Reimbursement of costs associated with Councillor attendance at dinners and other non-Council functions will be at the discretion of the Mayor and the General Manager and will only be considered when the function is relevant to Council's interests.
- 6.44. No payment will be made for attendance by a Councillor at any political fundraising event, for any donation to a political party or candidate's electoral fund, or for some other private benefit.
- 6.45. The annual limit for payment of expenses under this Section shall be \$500-550 per Councillor and \$1,000-050 for the Mayor.

Expenses for Spouses, Partners and Accompanying Persons

- 6.46. In limited circumstances, Council will meet certain costs incurred by the Councillor on behalf of their spouse, partner or accompanying person that are properly and directly related to the role of the Councillor in the performance of their duties and where their spouse, partner of accompanying person may be expected to attend, such as attendance at official Council functions that are of a formal, charitable or ceremonial nature within Metropolitan Sydney. Note: An accompanying person is a person who has a close personal relationship with the Councillor and/or provides carer support to the Councillor.
- 6.47. Costs and expenses incurred by the Councillor on behalf of their spouse, partner or accompanying person will be reimbursed if the cost relates specifically to the ticket, meal and/or direct cost of attending the function, including carer costs. Peripheral expenses such as grooming, special clothing and transport are not considered reimbursable expenses.
- 6.48. Spouses, partners or accompanying persons are welcome to join Councillors whilst attending events outside of Metropolitan Sydney and in such circumstances, Council will not require reimbursement of costs if no additional travel and accommodation expenses are incurred over and above what would have been expended by the individual Councillor. For example, if the person/s travel as a passenger in the Councillor's vehicle and are able to be accommodated in the same room already provided as standard to the Councillor, it will be considered that no additional cost has been incurred by Council. Except for attendance at the annual LGNSW Annual Conference as provided in clause 6.49 below, all other expenses for spouses, partners and accompanying persons attending events outside Metropolitan Sydney will be the responsibility of the Councillor.
- 6.49. In relation to Councillor attendance at the LGNSW Annual Conference, the additional cost of registration and official conference dinners for their spouse, partner or accompanying person will be met by Council, however, this provision does not extend to social outings and tours which may be provided as part of the "partners program". In accordance with clause 6.48 above, any additional transport and accommodation expenses for attendance at this Conference will be the responsibility of the Councillor.

The annual limit for payment of expenses under this Section shall be \$500-550 per Councillor and \$1,000-050 for the Mayor.

Superannuation

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

7. Insurances

- 7.1. In accordance with Section 382 of the Local Government Act, Council is insured against public liability and professional indemnity claims. Councillors are included as a named insured on this Policy.
- 7.2. Insurance protection is only provided if a claim arises out of or in connection with the Councillor's performance of his or her civic duties, or exercise of his or her functions as a Councillor. All insurances are subject to any limitations or conditions set out in the policies of insurance.
- 7.3. Council shall pay the insurance policy excess in respect of any claim accepted by council's insurers, whether defended or not.
- 7.4. Appropriate travel insurances will be provided for any Councillors travelling on approved interstate and overseas travel on council business.

Additional clause adopted by Council:

7.5 In addition Council will maintain relevant cover for personal injury. Personal injury arrangements for Councillors are set out in more detail in Council's Policy "Councillors Employees and Volunteers – Legal Assistance and Insurance Protection."

8. Legal assistance

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

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- 8.2. In the case of a code of conduct complaint made against a Councillor, legal costs will only be made available where the matter has been referred by the General Manager to a conduct reviewer and the conduct reviewer has commenced a formal investigation of the matter and makes a finding substantially favourable to the Councillor.
- 8.3. Legal expenses incurred in relation to proceedings arising out of the performance by a Councillor of his or her functions under the Act are distinguished from expenses incurred in relation to proceedings arising merely from something that a Councillor has done during his or her term in office. For example, expenses arising from an investigation as to whether a Councillor acted corruptly would not be covered by this section.
- 8.4. Council will not meet the legal costs:
 - of legal proceedings initiated by a Councillor under any circumstances
 - of a Councillor seeking advice in respect of possible defamation, or in seeking a nonlitigious remedy for possible defamation
 - for legal proceedings that do not involve a Councillor performing their role as a Councillor.
- 8.5. Reimbursement of expenses for reasonable legal expenses must have Council approval by way of a resolution at a council meeting prior to costs being incurred.

Additional clause adopted by Council:

8.6. In addition Council will maintain relevant cover for legal assistance. Legal assistance arrangements for Councillors are set out in more detail in Council's Policy "Councillors Employees and Volunteers – Legal Assistance and Insurance Protection."

Part C – Facilities

9. General facilities for all Councillors

Facilities

- 9.1. Council will provide the following facilities to Councillors to assist them to effectively discharge their civic duties:
 - a Councillor common room appropriately furnished to include telephone, photocopier, printer, desks, computer terminals, pigeon holes and appropriate refreshments (excluding alcohol)
 - access to shared car parking spaces while attending council offices on official business
 - personal protective equipment for use during site visits
 - a name badge which may be worn at official functions, indicating that the wearer holds the office of a Councillor and/or Mayor or Deputy Mayor.
- 9.2. Councillors may book meeting rooms for official business in a specified council building at no cost. Rooms may be booked through a specified officer in the Mayor's office or other specified staff member.

9.3. The provision of facilities will be of a standard deemed by the General Manager as appropriate for the purpose.

Stationery

- 9.4. Council will provide the following stationery to Councillors each year:
 - letterhead, to be used only for correspondence associated with civic duties
 - business cards
 - up to [insert] ordinary postage stamps
 - up to \$500 for Christmas or festive cards per year for Councillors and \$<u>1</u>500 for the Mayor.
- 9.5. As per Section 4, stamps shall only be used to support a Councillor's civic duties. Councillor mail will only be posted using the stamps provided. Any stamps not used will not be carried over to the next year's allocation.

Additional clause adopted by Council:

9.5A In addition to the above, Council will provide an annual amount of \$3,000-150 total for all Councillors to cover general stationery consumables such as pens, paper, folders, ink cartridges etc. Postage will be carried out through Council's administrative processes with associated costs covered through that process.

Administrative support

- 9.6. Council will provide administrative support to Councillors to assist them with their civic duties only. Administrative support may be provided by staff in the Mayor's office or by a member of council's administrative staff as arranged by the General Manager or their delegate.
- 9.7. As per Section 4, Council staff are expected to assist Councillors with civic duties only, and not assist with matters of personal or political interest, including campaigning.

10. Additional facilities for the Mayor

- 10.1. Where a vehicle is provided to the Mayor, include clauses 10.1-10.4 Council will provide to the Mayor a maintained vehicle to a similar standard of other council vehicles, with a fuel card. The vehicle will be supplied for use on business, professional development and attendance at the Mayor's office.
- 10.2. The Mayor must keep a log book setting out the date, distance and purpose of all travel. This must include any travel for private benefit. The log book must be submitted to council on a monthly basis.
- 10.3. The Mayoral allowance will be reduced to cover the cost of any private travel recorded in the log book, calculated on a per kilometre basis by the rate set by the Local Government (State) Award.

Additional clause adopted by Council:

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- 10.3A Where the Mayor of the day so chooses, full private use of the Mayoral car, on payment of an amount determined by Council for such use and increased by CPI each July. This amount is to be deducted from the Mayor's Annual Fee. As at 1 July <u>2018–2021</u> this payment is \$7,<u>341.00646</u>.
- 10.4. A parking space at council's offices will be reserved for the Mayor's council-issued vehicle for use on official business, professional development and attendance at the Mayor's office.
- 10.5. Council will provide the Mayor with a furnished office incorporating a computer configured to council's standard operating environment, telephone and meeting space.
- 10.6. In performing his or her civic duties, the Mayor will be assisted by a small number of staff providing administrative and secretarial support, as determined by the General Manager.
- 10.7. The number of exclusive staff provided to support the Mayor and Councillors will not exceed two full time equivalents.
- 10.8. As per Section 4, staff in the Mayor's office are expected to work on official business only, and not for matters of personal or political interest, including campaigning.

Additional clause adopted by Council:

10.9 The Deputy Mayor will be provided with the same facilities as those provided to Councillors but in addition when acting as the Mayor, may be entitled to use of facilities set out in part 10.1-10.7 of this Policy.

Part D – Processes

11. Approval, payment and reimbursement arrangements

- 11.1. Expenses should only be incurred by Councillors in accordance with the provisions of this policy.
- 11.2. Approval for incurring expenses, or for the reimbursement of such expenses, should be obtained before the expense is incurred.
- 11.3. Up to the maximum limits specified in this policy, approval for the following may be sought after the expense is incurred:
 - local travel relating to the conduct of official business
 - carer costs
 - ICT expenditure.
- 11.4. Final approval for payments made under this policy will be granted by the General Manager or their delegate.

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Direct payment

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

Additional clause adopted by Council:

11.5A The provisions of 11.5 above will only apply in limited circumstances where payment by a Councillor and subsequent reimbursement as per the usual arrangement is considered impractical.

Reimbursement

11.6. All claims for reimbursement of expenses incurred must be made on the prescribed form, supported by appropriate receipts and/or tax invoices and be submitted to the General Manager.

Advance payment

- 11.7. Council may pay a cash advance for Councillors attending approved conferences, seminars or professional development.
- 11.8. The maximum value of a cash advance is \$30 per day of the conference, seminar or professional development to a maximum of \$100.
- 11.9. Requests for advance payment must be submitted to the General Manager for assessment against this policy using the prescribed form with sufficient information and time to allow for the claim to be assessed and processed.
- 11.10. Councillors must fully reconcile all expenses against the cost of the advance within one month of incurring the cost and/or returning home. This includes providing to council:
 - a full reconciliation of all expenses including appropriate receipts and/or tax invoices
 - reimbursement of any amount of the advance payment not spent in attending to official business or professional development.

Notification

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

Reimbursement to council

- 11.13. If council has incurred an expense on behalf of a Councillor that exceeds a maximum limit, exceeds reasonable incidental private use or is not provided for in this policy:
 - council will invoice the Councillor for the expense

- the Councillor will reimburse council for that expense within 14 days of the invoice date.
- 11.14. If the Councillor cannot reimburse council within 14 days of the invoice date, they are to submit a written explanation to the General Manager. The General Manager may elect to deduct the amount from the Councillor's allowance.

Timeframe for reimbursement

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

Additional clauses adopted by Council:

11.16. Claims for reimbursement must include an itemised account of expenditure and not be general in nature. Where receipts and tax invoices are not provided, the Councillor is to submit a signed declaration listing the expenses incurred. The payment of claims without receipts and tax invoices, however, shall be at the discretion of the General Manager.

12. Disputes

- 12.1. If a Councillor disputes a determination under this policy, the Councillor should discuss the matter with the General Manager.
- 12.2. If the Councillor and the General Manager cannot resolve the dispute, the Councillor may submit a notice of motion to a council meeting seeking to have the dispute resolved.

13. Return or retention of facilities

- 13.1. All unexpended facilities or equipment supplied under this policy are to be relinquished immediately upon a Councillor or Mayor ceasing to hold office or at the cessation of their civic duties.
- 13.2. Should a Councillor desire to keep any equipment allocated by council, then this policy enables the Councillor to make application to the General Manager to purchase any such equipment. The General Manager will determine an agreed fair market price or written down value for the item of equipment.
- 13.3. The prices for all equipment purchased by Councillors under clause 13.2 will be recorded in Council's annual report.

14. Publication

14.1. This policy will be published on council's website.

15. Reporting

- 15.1. Council will report on the provision of expenses and facilities to Councillors as required in the Act and Regulations.
- 15.2. Detailed reports on the provision of expenses and facilities to Councillors will be publicly tabled at a council meeting every six months and published in full on council's website. These reports will include expenditure summarised by individual Councillor and as a total for all Councillors.

16. Auditing

16.1. The operation of this policy, including claims made under the policy, will be included in council's audit program and an audit undertaken at least every two years.

17. Breaches

- 17.1. Suspected breaches of this policy are to be reported to the General Manager.
- 17.2. Alleged breaches of this policy shall be dealt with by following the processes outlined for breaches of the Code of Conduct, as detailed in the Code and in the Procedures for the Administration of the Code.

PART E – Appendices

Appendix I: Related legislation, guidance and policies

Relevant legislation and guidance:

- Local Government Act 1993, Sections 252 and 253
- Local Government (General) Regulation 2005, clauses 217 and 403
- Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW, 2009
- Local Government Circular 09-36 Guidelines for Payment of Expenses and Facilities
- Local Government Circular 05-08 legal assistance for Councillors and Council Employees.

Additional references included by Council:

- Office of Local Government Circular No. 11-27 Findings from Review of Councillor Expenses and Facilities Policies
- Office of Local Government Circular No. 17/17 Councillor Expenses and Facilities Policy Better Practice Template
- ICAC Publication No Excuse for Misuse, Preventing the Misuse of Council Resources
- other relevant documents

Related Council policies:

- Code of Conduct
- Councillors Employees and Volunteers Legal Assistance and Insurance Protection
- Insurance Protection for Councillors, Staff and Volunteers

Appendix II: Definitions

The following definitions apply throughout this policy.

Term	Definition
accompanying person	Means a spouse, partner or de facto or other person who has a close personal relationship with or provides carer support to a Councillor
appropriate refreshments	Means food and beverages, excluding alcohol, provided by council to support Councillors undertaking official business
Act	Means the Local Government Act 1993 (NSW)
clause	Unless stated otherwise, a reference to a clause is a reference to a clause of this policy
Code of Conduct	Means the Code of Conduct adopted by Council or the Model Code if none is adopted
Councillor	Means a person elected or appointed to civic office as a member of the governing body of council who is not suspended, including the Mayor
General Manager	Means the General Manager of Council and includes their delegate or authorised representative
incidental personal use	Means use that is infrequent and brief and use that does not breach this policy or the Code of Conduct
long distance intrastate travel	Means travel to other parts of NSW of more than three hours duration by private vehicle
maximum limit	Means the maximum limit for an expense or facility provided in the text and summarised in Appendix 1
NSW	New South Wales
official business	Means functions that the Mayor or Councillors are required or invited to attend to fulfil their legislated role and responsibilities for council or result in a direct benefit for council and/or for the local government area, and includes:
	meetings of council and committees of the whole
	meetings of committees facilitated by council
	civic receptions hosted or sponsored by council
	 meetings, functions, workshops and other events to which attendance by a Councillor has been requested or approved by council
professional development	Means a seminar, conference, training course or other development opportunity relevant to the role of a Councillor or the Mayor
Regulation	Means the Local Government (General) Regulation 2005 (NSW)
year	Means the financial year, that is the 12 month period commencing on 1 July each year

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POLICY REGISTER

POLICY TITLE:	STATUTORY - PRIVACY MANAGEMENT PLAN		
FOLDER NUMBER:	F2007/00307		
POLICY OWNER / DIVISION:	Corporate Support Division		
POLICY OWNER / BRANCH:	Governance and Customer Service		
FUNCTION	Governance		
RELEVANT LEGISLATION:	Privacy and Personal Information Protection Act 1998 Health Records and Information Privacy Act 2002		
POLICY ADOPTION/AMENDMENT DATE:	8 August 2018 <u>11 May 2022</u> REPORT NUMBER : CS33/18 <u>CS4/22</u>		
REVIEW YEAR:	202 4 <u>2024</u>		
AMENDMENT HISTORY:	17 April 2013 (Report GM2/13) 14 February 2001 (Report CC10/01) 20 April 2011 (Report CC10/11) 13 August 2014 (Report CS19/14) 8 April 2015 (Report CS6/15) 8 August 2018 (Report CS33/18)		

RELATED POLICIES:

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Preface

The Privacy and Personal Information Protection Act 1998 (the "PPIPA") requires all councils to prepare a Privacy Management Plan outlining their policies and practices to ensure compliance with the requirements of that Act and the Health Records and Information Privacy Act 2002 (the HRIPA).

In particular, the object of this plan is to inform:

- The community about how their -personal information will be used, stored and accessed after it is collected by Council; and
- Council staff of their obligations in relation to handling personal information and when they can and cannot disclose, use or collect it.

Page 4 of 67 Date: 8 August 2018 11 May 2022 This Privacy Management Plan is based on the Model Privacy Management Plan for Local Government issued by the Office of Local Government in January 2013. In some instances clauses additional to those provided in the Model Plan, which are specific to Hornsby Council, have been included. These clauses appear in the relevant section under the heading "Additional Clause Adopted by Council".

The Privacy and Personal Information Protection Act 1998 ("PPIPA") provides for the protection of personal information and for the protection of the privacy of individuals.

Section 33 of the PPIPA requires all councils to prepare a Privacy Management Plan (the "Plan") to deal with:

- the devising of policies and practices to ensure compliance by Council with the requirements of the PPIPA, and the Health Records and Information Privacy Act 2002 (HRIPA)
- " the dissemination of those policies and practices to persons within Council,
- " the procedures that Council proposes for internal review of privacy complaints;
- " such other matters as are considered relevant by Council in relation to privacy and the protection of personal information held by it.

This Plan has been prepared for the purpose of section 33 of the PPIPA.

PPIPA provides for the protection of personal information by means of 12 Information Protection Principles. Those principles are listed below:

- Principle 1 Collection of personal information for lawful purposes
- Principle 2 Collection of personal information directly from an individual
- Principle 3 Requirements when collecting personal information
- Principle 4 Other requirements relating to collection of personal information
- Principle 5 Retention and security of personal information
- Principle 6 Information about personal information held by agencies
- Principle 7 Access to personal information held by agencies
- Principle 8 Alteration of personal information
- Principle 9 Agency must check accuracy of personal information before use
- Principle 10 Limits on use of personal information
- Principle 11 Limits on disclosure of personal information
- Principle 12 Special restrictions on disclosure of personal information

Those principles are *modified* by the Privacy Code of Practice for Local Government ("the Code") made by the Attorney General. To date there has been no Health Records and Information Privacy Code of Practice made for Local Government.

Page 5 of 67 Date: 8 August 2018 11 May 2022 The Code has been developed to enable Local Government to fulfil its statutory duties and functions under the Local Government Act 1993 (the "LGA") in a manner that seeks to comply with the PPIPA.

This Plan outlines how Council will incorporate the 12 Information Protection Principles into its everyday functions.

This Plan should be read in conjunction with incorporates the applicable provisions of the Privacy Code of Practice for Local Government (the Code) developed by the information and Privacy Commission (IPC). The Code modifies the Information Protection Principles contained in Part 2, Division 1 of the PPIPA and the provisions of Part 6 of the PIPPA, as they relate to Local Government.

Nothing in this Plan is to:

- affect any matter of interpretation of the Code or the Information Protection Principles as they apply to Council;
- affect any obligation at law cast upon Council by way of representation or holding out in any manner whatsoever;
- " create, extend or lessen any obligation at law which Council may have.

This Plan is designed to introduce policies and procedures to maximise compliance with the PPIPA and the HRIPA.

Where Council has the benefit of an exemption, it will nevertheless describe procedures for compliance in this Plan. By doing so, it is not to be bound in a manner other than that prescribed by the Codes.

Council collects, stores and uses a broad range of information. A significant part of that information is personal information. This Plan applies to that part of Council's information that is personal information.

It may mean in practice that any information that is not personal information will receive treatment of a higher standard; namely treatment accorded to personal information where the information cannot be meaningfully or practicably separated.

1.1 What is personal information?

"Personal information" is defined in section 4 of the PPIPA as follows:

Personal information is defined to mean information or an opinion about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion. This information can be on a database and does not necessarily have to be recorded in a material form.

1.2 What is not "personal information".

"Personal information" does not "include information about an individual that is contained in a publicly available publication". Personal information, once it is contained in a publicly available publication, ceases to be covered by the PPIPA.

Page 6 of 67 Date: 8 August 2018 11 May 2022 Section 4A of the PPIPA also specifically excludes "health information", as defined by section 6 of the HRIPA, from the definition of "personal information", but includes "health information" in the PPIPA's consideration of public registers (discussed below). "Health information" is considered in Part 4 of this Plan.

Where Council is requested to provide access or make a disclosure and that information has already been published, then Council will rely on the provisions of the relevant Act that authorises Council to hold that information and not the PPIPA (for example, section 8 of the Government Information (Public Access) Act 2009 (GIPA Act).

Council considers the following to be publicly available publications:

- " An advertisement containing personal information in a local, city or national newspaper.
- Personal information on the Internet.
- " Books or magazines that are printed and distributed broadly to the general public.
- Council Business papers-Papers or that part that is available to the general public.
 - Personal information that may be a part of a public display on view to the general public.

Information published in this way ceases to be covered by the PPIPA.

Council's decision to publish in this way must be in accordance with PPIPA.

1.3 Application of this Plan

The PPIPA, the HRIPA and this Plan apply, wherever practicable, to:

- " Councillors;
- " Council employees;
- " Consultants and contractors of Council;
- " Council owned businesses; and
- Council committees (including community members of those committees which may be established under section 355 of the LGA).

Council will ensure that all such parties are made aware that they must comply with PPIPA, the HRIPA, any other applicable Privacy Code of Practice and this Plan.

1.4 Personal Information Held by Council

Council holds personal information concerning Councillors, such as:

- personal contact information;
- " complaints and disciplinary matters;
- " pecuniary interest returns; and
- entitlements to fees, expenses and facilities;

Page 7 of 67 Date: 8 August 2018 11 May 2022 Council holds personal information concerning its customers, ratepayers and residents, such as:

- " rates records; and
 - payment records such as bank details
- DA applications and objections and
- various types of health information (see page 36 for detailed examples).

Council holds personal information concerning its employees, such as:

- recruitment material;
- leave and payroll data;
- personal contact information;
- performance management plans;
- disciplinary matters;
- pecuniary interest returns;
- wage and salary entitlements, and
- health information (such as medical certificates and workers compensation claims).

1.5 Applications for suppression in relation to general information (not public registers).

Under section 739 of the Local Government Act 1993 (LGA) a person can make an application to suppress certain material that is available for public inspection in circumstances where the material discloses or would disclose the person's place of living if the person considers that the disclosure would place the personal safety of the person or their family at risk.

Section 739 of the LGA relates to publicly available material other than public registers. As such, it limits disclosure in those circumstances where an application for suppression is successful. An application for suppression must be verified by statutory declaration and otherwise meet the requirements of section 739. When in doubt, Council will err in favour of suppression.

For more information regarding disclosure of information (other than public registers) see the discussion of IPPs 11 and 12 in Part 3 of this Plan. For information regarding suppression of information on *public registers*, see Part 2 of this Plan.

1.6 Caution as to Unsolicited Information

Where an individual, a group or committee, not established by Council, gives Council unsolicited personal or health information, then that information should be still treated in accordance with this Plan, the Codes, the HRIPA and the PPIPA for the purposes of IPPs 5-12 and HPPs 5-15 which relate to storage, access, use and disclosure of information.

Note that for the purposes of section 10 of the HRIPA, Council is not considered to have "collected" health information if the receipt of the information by Council is unsolicited.

Section 4(5) of the PPIPA also provides that personal information is not "collected" by Council if it is unsolicited.

Page 8 of 67 Date: 8 August 2018 11 May 2022 A public register is defined in section 3 of the PPIPA:

public register means a register of personal information that is required by law to be, or is made, publicly available or open to public inspection (whether or not on payment of a fee).

A distinction needs to be drawn between "public registers" within the meaning of Part 6 of the PPIPA and "non public registers". A "non public register" is a register but it is not a "public register" for the purposes of the PPIPA. For example, the register might not be publicly available or it may not contain personal information.

Disclosure in relation to public registers must comply with Part 6 of the PPIPA and <u>the-part 5 of the</u> Code. Personal information cannot be accessed by a person about another person unless the personal information is contained in a public register. Where personal information is contained in a public register, then Part 6 of the PPIPA applies to determine whether access to that information will be given to another person.

Disclosure in relation to all other personal information must comply with the Information Protection Principles as outlined in Part 2 of this Plan and the Code where it includes personal information that is not published.

Council holds the following public registers under the LGA: ***

Section	53 -	I and	Register
OCCUON	00	Lana	rogistor

- Section 113 Records of Approvals
- Section 449-450A440AAB Register and tabling of Pecuniary Interestsreturns

" Section 602 - Rates Record

*** Note – this is purely indicative. Council may, by virtue of its own practice, hold other Public Registers, to which PPIPA applies.

Council holds the following public registers under the Environmental Planning and Assessment Act:

- Section <u>100-4.58</u> Register of consents and approvalscertificates
- Section 149G-6.26(8) Record of building information certificates

Council holds the following public register under the Protection of the Environment (Operations) Act:

Section 308 – Public register of licences held

Council holds the following public register under the Impounding Act-1993:

Section 30 and 31 - Record of impoundingimpounded itmes

Members of the public may enquire only in accordance with the primary purpose of any of these registers. The primary purpose for each of these public registers is set out in the sections that follow.

2.1 Public Registers the PPIPA and the HRIPA

Page 9 of 67 Date: 8 August 2018 11 May 2022 A public register generally confers specific rights or privileges, a benefit, or status, which would not otherwise exist. It may be required by law to be made publicly available or open to public inspection, or it is simply made publicly available or open to public inspection (whether or not payment is required).

Despite the exclusion of "health information" from the definition of "personal information" under section 4A of the PPIPA, section 56A of the PPIPA *includes* as "personal information", "health information" on public registers.

Section 57(1) of the PPIPA requires very stringent controls over the disclosure of personal information contained in a public register. It provides broadly that where Council an agency is responsible for keeping a public register, it will not disclose any personal information kept in that register unless it is satisfied that the information is to be used for a purpose relating to the purpose of the register or the Act under which the register is kept.

Section 57 (2) provides that in order to ensure compliance with section 57(1), a <u>Councilan agency</u> may require any person who applies to inspect personal information contained in the public register to give particulars in the form of a statutory declaration as to the proposed use of that information. (Form at Appendix 1 may be used a guide).

Councils also need to consider the Privacy Code of Practice for Local Government which has the effect of modifying the application of Part 6 of the PPIPA (the "public register" provisions). If the stated purpose of the applicant does not conform with the purpose for which the public register is kept, access to the information sought will not be given.

The Privacy Code of Practice for Local Government

The Code provides that the application of section 57 of PPIPA is modified to the extent that:

1. Council may allow any person to:

(*i*) inspect a publicly available copy of a public register in Council premises, and (*ii*) copy a single entry or a page of the register

without requiring the person to provide a reason for accessing the register and without determining that the proposed use of the register is consistent with the purpose of the register or the Act under which the register is kept

- Council should not require any person to provide a reason for inspecting Council's pecuniary interest register or any register on which Council records returns of interests made by councillors or designated persons under Part 4 of the Model Code of Conduct for Local Councils in NSW.
- 3. Council should not require the making of a statutory declaration as to the intended use of any information obtained from an inspection of Council's pecuniary interest register or any register on which Council records returns of interests made by councillors or designated persons under Part 4 of the Model Code of Conduct for Local Councils in NSW.

Page 10 of 67 Date: <u>8 August 201811 May 2022</u> <u>4.</u> Council must ensure that the provisions of Section 6 of the Government Information (Public Access)
 <u>Act 2009 and Sections 4.58 and 6.26 of the Environmental Planning and Assessment Act 1979 are complied with, where applicable.</u>

Where personal information is contained in a publicly available publication, that information will not be regarded as personal information covered by the PPIPA or as health information for the purposes of part 6 of the PPIPA.

2.2 Effect on Section 6 of the GIPA Act

Section 57 of the PPIPA prevails over -clause 1(3) of Schedule 1 of the Government Information (Public Access) Regulation 2009 (GIPA Regulation) to the extent of any inconsistency. Therefore:

- 1. If a register is listed in Schedule 1 of the GIPA Regulation, access must not be given except in accordance with section 57(1) of the PPIPA.
- 2. If a register is not listed in Schedule 1 of the GIPA Regulation, access must not be given except:
 - (i) if it is allowed under section 57(1) of the PPIPA; and
 - there is no overriding public interest against disclosure of the information under section 6 of the GIPA Act.

Note: Both 1 and 2 are amended with regard to specific public registers in the Privacy Code of Practice for Local Government.

2.3 Where some information in the public register has been published

That part of a public register that is not published in a publicly available publication will be treated as a "public register" and the following procedure for disclosure will apply.

For example, the Register of Consents and Approvals-Certificates held by Council under section <u>100-4.58</u> of the Environmental Planning and Assessment Act requires Council to advertise or publish applications for development consent.

When Council publishes the address of the property, it may identify the owner. The personal information that has not been published and any applications not advertised or that have been rejected or withdrawn (and hence also not published) will be treated as a public register under PPIPA.

Council may hold a register under the Contaminated Land Management Act on behalf of the Environment Protection Authority. This is not to be considered a public register of Council as the statute does not place any obligations on Council to make this register publicly available as a register of contaminated land. Furthermore, the legislation foreshadows that the Environment Protection Authority may indeed post this list or register on the internet. This may constitute a publication of the information and therefore the PPIPA will not apply.

Registers should not be published on the internet.

2.4 Disclosure of personal information contained in the public registers

Page 11 of 67 Date: <u>8 August 2018 11 May 2022</u> A person seeking a disclosure concerning someone else's personal information from a public register must satisfy Council that the intended use of the information is for a purpose relating to the purpose of the register or the Act under which the register is kept.

In the following section, by way of guidance only, what might be called the "primary" purpose (or "the purpose of the register") has been specified for each identified register. In some cases a "secondary purpose" has also been specified, by way of guidance as to what might constitute "a purpose *relating to* the purpose of the register".

2.5 Purposes of Public Registers

Purposes of public registers under the Local Government Act

<u>Section 53 - Land Register</u> – The primary purpose is to identify all land vested in Council, or under its control. The secondary purpose includes a consideration of public accountability as to the land held by Council. Third party access is therefore a secondary purpose.

<u>Section 113 - Records of Approvals</u> - The primary purpose is to identify all approvals granted under the LGA.

<u>Section 450A-440AAB - Register of Pecuniary Interestsand tabling of returns</u> – The primary purpose of this register is to determine whether or not a Councillor or a member of a council committee has a pecuniary interest in any matter with which Council is likely to be concerned. There is a corresponding public accountability purpose and third party access is a secondary purpose.

<u>Section 602 - Rates Record</u> - The primary purpose is to record the value of a parcel of land and record rate liability in respect of that land. The secondary purpose includes recording the owner or lessee of each parcel of land. For example, that a disclosure on a section 603 (of the LGA) rating certificate that a previous owner was a pensioner is considered to be allowed, because the secondary purpose is "a purpose relating to the purpose of the register".

Purposes of public registers under the Environmental Planning and Assessment Act

<u>Section 400-4.58 – Register of consents and approvals certificates</u> – The primary purpose is to identify applications for development consent and other approvals, confirm determinations on appeal and identify applications for complying development certificates.

<u>Section 149G-6.26(8)</u> – Record of building information certificates – The primary purpose is to identify all building certificates.

Purposes of public registers under the Protection of the Environment (Operations) Act

<u>Section 308 – Public register of licences held</u> – The primary purpose is to identify all licences granted under the Act.

Purposes of the public register under the Impounding Act

Page 12 of 67 Date: 8 August 2018 11 May 2022 <u>Section 30 and 31 – Record of impounding impounded items</u> – The primary purpose is to identify any impounding action by Council.

Secondary purpose of all Public Registers

Due to the general emphasis (to be found in the LGA and elsewhere) on local government processes and information being open and accountable, it is considered that a secondary purpose for which all public registers are held by Council includes the provision of access to members of the public. Therefore disclosure of specific records from public registers would normally be considered to be allowable under section 57 of the PPIPA.

However, requests for access, copying or the sale of the whole or a substantial part of a Public Register held by Council will not necessarily fit within this purpose. Council should be guided by the Privacy Code of Practice for Local Government in this respect. Where Council officers have doubt as to the intended use of the information, an applicant may be requested to provide a statutory declaration so that Council may satisfy itself as to the intended use of the information.

Council will make its assessment as to the **minimum** amount of personal information that is required to be disclosed with regard to any request.

Other Purposes

Persons or organisations who apply to Council to have access to the information contained in any public register for a purpose not related to the purpose of the register, may be given access at the discretion of Council but only in accordance with the Privacy Code of Practice for Local Government concerning Public Registers.

2.6 Applications for access to own records on a public register

A person wishing to have access to a public register to confirm their own details needs only to prove their identity to Council before having access to their own personal information.

2.7 Applications for suppression in relation to a public register

An application for suppression in relation to a public register will be dealt with under PPIPA, rather than section 739 of the LGA.

A person about whom personal information is contained (or proposed to be contained) in a public register, may request Council under section 58 of the PPIPA to have the information removed from, or not placed on the register.

If Council is satisfied that the safety or well-being of any person would be affected by not suppressing the personal information as requested, Council will suppress the information in accordance with the request unless Council is of the opinion that the public interest in maintaining public access to the information outweighs any individual interest in suppressing the information, in accordance with section 58(2) of the PPIPA. ("Well-being" is defined in the Macquarie Dictionary as "the good or satisfactory condition of existence; welfare".)

Page 13 of 67 Date: <u>8 August 201811 May 2022</u> When in doubt, Council will err in favour of suppression.

Any information that is removed from, or not placed on, that aspect of a public register to be made public may be kept on the register for other purposes. That is, the information may still be used for council functions, but it cannot be disclosed to other parties.

An application for suppression should be made in writing addressed to the General Manager and must outline the reasons for the request. Council may require supporting documentation where appropriate.

2.8 Other registers

Council may have other registers that are not public registers. The Information Protection Principles, this Plan, any applicable Code and the PPIPA Act apply to those registers or databases.

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Part 3 – The Information Protection Principles

Information Protection Principle 1

Section 8

Section 8 Collection of personal information for lawful purposes

- (1) A public sector agency must not collect personal information unless:
 - the information is collected for a lawful purpose that is directly related to a function or activity (a) of the agency, and
 - (b) the collection of the information is reasonably necessary for that purpose.
- (2) A public sector agency must not collect personal information by any unlawful means.

The Privacy Code of Practice for Local Government

The Code makes no provision to depart from the requirements of this principle.

Council Policy

Council will only collect personal information for a lawful purpose as part of its proper functions. The LGA governs Council's major obligations and functions.

Section 22 of the LGA provides other functions under other Acts. Some of those Acts are as follows:

- Community Land Development Act 1989;
- Companion Animals Act 1998:**
- Conveyancing Act 1919;
- Environmental Planning and Assessment Act 1979;
- Fire Brigades Regulation 2014Act 1989;
- Fluoridation of Public Water Supplies Act 1957;
- Food Act 19892003;
- Impounding Act 1993;
- Library Act 1939;
- Protection of the Environment Operations Act 1997;
- Public Health Act 19912010;
- Recreation Vehicles Act 1983;
- Roads Act 1993:
- Rural Fires Act 1997;
- State Emergency Service Act 1989.
- Strata Schemes (Freehold-Development-) Act 19732015;
- Strata Schemes (Leasehold-Management Development) Act 19862015; and
- ---Swimming Pools Act 1992.
- Public Health Act 1991.

This list is not exhaustive.

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Additionally, the exercise by Council of its functions under the LGA may also be <u>modified</u> by the provisions of other Acts. Some of those Acts follow:

- Coastal Protection Management Act 20161979;
- Environmental Offences and Penalties Act 1989;
- " Government Information (Public Access) Act 2009;
- " Heritage Act 1977;
- " State Emergency and Rescue Management Act 1989;
- Ünclaimed Money Act 1995;
- " Unhealthy Building Land Act 1990.

The circumstances under which Council may collect information, including personal information, are varied and numerous.

Council will not collect any more personal information than is reasonably necessary for it to fulfil its proper functions.

Anyone engaged by Council as a private contractor or consultant that involves the collection of personal information must agree to be bound not to collect personal information by any unlawful means. This will include debt recovery actions by or undertaken on behalf of Council by commercial agents.

Additional Clause Adopted by Council

In respect of this IPP as it relates to closed circuit television, please refer to Council's CCTV Surveillance Systems Determination.

**Companion Animals Act

Collection of information under the Companion Animals Act and Council's use of the Companion Animals Register should be guided by the Director General's guidelines, which have been developed with the PPIPA in mind.

Role of the Privacy Contact Officer

In order to ensure compliance with Information Protection Principle 1, internet contact forms, rates notices, application forms of whatsoever nature, or written requests by which personal information is collected by Council; will be referred to the Privacy Contact Officer prior to adoption or use.

The Privacy Contact Officer will also provide advice as to:

- 1. Whether the personal information is collected for a lawful purpose;
- 2. If that lawful purpose is directly related to a function of Council; and
- Whether or not the collection of that personal information is reasonably necessary for the specified purpose.

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Information Protection Principle 2 Direct Collection

Section 9 Collection of personal information directly from individual

A public sector agency must, in collecting personal information, collect the information directly from the individual to whom the information relates unless:

- (a) the individual has authorised collection of the information from someone else, or
- (b) in the case of information relating to a person who is under the age of 16 years—the information has been provided by a parent or guardian of the person.

The Privacy Code of Practice for Local Government

The Code makes provision for Council to depart from this principle where indirect collection of personal information is reasonably necessary when an award, prize, benefit or similar form of personal recognition is intended to be conferred upon the person to whom the information relates.

Council Policy

The compilation or referral of registers and rolls are the major means by which Council collects personal information. For example, the information Council receives from the Land Titles Office would fit within section 9(a) above.

Other means include forms that customers may complete and lodge with Council for development consent, companion animal registration, applications for specific inspections or certifications or applications in respect of tree preservation orders.

In relation to petitions, Council will treat the personal information contained in petitions in accordance with PPIPA.

Where Council or a Councillor requests or-requires information from individuals or groups, that information will be treated in accordance with PPIPA.

Council regards all information concerning its customers as information protected by PPIPA. Council will therefore collect all personal information directly from its customers except as provided in section 9 or under other statutory exemptions or Codes of Practice. Council may collect personal information from other public sector agencies in respect of specific statutory obligations where it is authorised by law to do so.

Where Council anticipates that it may otherwise need to collect personal information indirectly it will first obtain the authorisation of each individual under section 9 (a) of the PPIPA.

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Additional Clause Adopted by Council

In respect of this IPP as it relates to closed circuit television, please refer to Council's CCTV Surveillance Systems Determination.

External and related bodies

Each of the following will be required to comply with this Plan, any applicable Privacy Code of Practice, and the PPIPA:

- " Council owned businesses;
- " Council consultants;
- " Private contractors;
- " Council committees.

Council will seek to contractually bind each of these bodies or persons to comply with the PPIPA.

Where any of the above collect personal information on behalf of Council or in relation to the performance of their activities, that body or person will be required to:

- " obtain a written authorisation and consent to that collection; and
- notify those persons in accordance with Information Protection Principle 3 as to the intended recipients and other matters required by that principle.

Council owned businesses, committees and private contractors or consultants must abide by this Plan, the Code and the PPIPA under the terms of their incorporation by Council or by contract.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 2.

Existing statutory exemptions under the Act

Compliance with Information Protection Principle 2 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in very obvious and limited circumstances and legal advice should normally be obtained.

The relevant statutory exemptions follow:

Section 23(2) of the PPIPA permits non-compliance with Information Protection Principle 2 if the information concerned is collected in connection with proceedings (whether or not actually commenced) before any court or tribunal.

Section 24(4) of the PPIPA permits non-compliance with Information Protection Principle 2 if:

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- (i) Council is investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency; and
- compliance might detrimentally affect (or prevent the exercise of) Council's complaint handling or investigative functions.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 2 where the agency is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 2 where noncompliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(1) of the PPIPA permits non-compliance with Information Protection Principle 2 if compliance would prejudice the interests of the individual concerned.

Further Explanation regarding IPP 2

Where Council cannot collect personal information directly from the person, it will ensure one of the following:

- 1. Council has obtained authority from the person under section 9(a) of the PPIPA.
- The collection of personal information from a third party is permitted under an Act or law. (For example, the indirect collection from the Land Titles Office.)
- The collection of personal information from a parent or guardian is permitted provided the person is less than 16 years of age.
- The collection of personal information indirectly where one of the above exemptions applies.
- 5. The collection of personal information indirectly is permitted under the Privacy Code of Practice for Local Government or the Investigative Code of Practice.

The only other exception to the above is in the case where Council is given unsolicited information.

Information Protection Principle 3

Requirements when collecting personal information

Section 10 Requirements when collecting personal information

If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances to ensure that, before the information is collected or as soon as practicable after collection, the individual to whom the information relates is made aware of the following:

- (a) the fact that the information is being collected,
- (b) the purposes for which the information is being collected,
- (c) the intended recipients of the information,

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- (d) whether the supply of the information by the individual is required by law or is voluntary, and any consequences for the individual if the information (or any part of it) is not provided,
- (e) the existence of any right of access to, and correction of, the information,
- (f) the name and address of the agency that is collecting the information and the agency that is to hold the information.

The Privacy Code of Practice for Local Government

The Code makes provision for Council to depart from this principle where personal information is collected about an individual for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition without prior or subsequent notification.

Council Policy

Where Council proposes to collect personal information directly from the person, it will inform that person that the personal information is being collected, what is done with that information and who the intended recipients will be.

Council will inform persons if the information is required by law or voluntarily given. Council will also inform individuals which department or section within Council holds their personal information, and of the right to access and correct that information. Council will adapt the general section 10 pre-collection Privacy Notification form as appropriate (See Appendix 2).

The following are examples of application procedures that will require a Privacy Notification Form in accordance with section 10:

- Lodging Development Applications;
- " Lodging objections to Development Applications;
- " Lodging applications for approval under the LGA;
- " Any stamps or printed slips that contain the appropriate wording for notification under section 10 (see Appendix 3); and
- " When collecting an impounded item.

In relation to the Privacy Notification Form that may be attached to a Development Application provided to objectors, it could be stated that objectors have a right to remain anonymous if they so choose. However, should they need to substantiate their objections, anonymous objections may be given less weight (or no weight) in the overall consideration of the Application.

Additional Clause Adopted by Council

In respect of this IPP as it relates to closed circuit television, please refer to Council's CCTV Surveillance Systems Determination.

Post - Collection

Where Council collects personal information indirectly from another public sector agency in respect of any one of its statutory functions, it will advise those individuals that it has collected their personal information by including a privacy notification form in the next issue of their rates notice, or otherwise by letter. A common

Page 20 of 67 Date: 8 August 2018 11 May 2022 example of the collection of information from another public sector agency is the Land Titles Office. Council receives information as to new ownership changes when property is transferred from one owner to the next. Appendix 3 contains a sample Privacy Notification Form that could be used for post-collection.

External and related bodies

Each of the following will be required to comply with Information Protection Principle 3:

- " Council owned businesses
- " Council consultants
- Private contractors
- " Council committees

Council will seek to contractually bind each of these bodies or persons to comply with the Information Protection Principle 3.

Where any of the above collect personal information on behalf of Council or in relation to the performance of their activities, that body or person will be required to notify those persons in accordance with Information Protection Principle 3 as to the intended recipients and other matters required by that principle.

Investigative Code of Practice

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 3.

Existing statutory exemptions under the Act

Compliance with Information Protection Principle 3 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

The relevant statutory exemptions follow:

Section 23(3) permits non-compliance with Information Protection Principle 3 where information is collected for law enforcement purposes. Law enforcement means a breach of the criminal law and criminal law enforcement. This section does not remove the rights of an accused person.

Section 24(4) of the PPIPA extends the operation of section 24(1) to councils and permits non-compliance with Information Protection Principle 3 if a council is:

- (i) investigating or otherwise handling a complaint or other matter that could be referred or made to, or has been referred from or made by an investigative agency; and
- (ii) if compliance might detrimentally affect (or prevent the exercise of) Council's complaint handling or investigative functions.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 3 where the agency is lawfully authorised or required not to comply with the principle.

Page 21 of 67 Date: <u>8 August 201811 May 2022</u> Section 25(b) of the PPIPA permits non-compliance with Information Protection Principle 3 where noncompliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26 (1) of the PPIPA permits non-compliance with Information Protection Principle 3 if compliance would prejudice the interests of the individual concerned.

Section 26(2) of the PPIPA permits non-compliance where the person expressly consents to such noncompliance.

Disclosure of information for research purposes

The disclosure of personal information for research purposes will be allowed only in accordance with any application Direction made by the Privacy Commissioner under section 41 of PPIPA or any Research Code of Practice made by the Attorney General as may be in force for the time being.

Information Protection Principle 4

Other requirements relating to collection of personal information

Section 11 Other requirements relating to collection of personal information

If a public sector agency collects personal information from an individual, the agency must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:

- (a) the information collected is relevant to that purpose, is not excessive, and is accurate, up to date and complete, and
- (b) the collection of the information does not intrude to an unreasonable extent on the personal affairs of the individual to whom the information relates.

The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

Council Policy

Council will seek to ensure that no personal information is collected which is not directly relevant to its proper functions.

Council collects personal information through the various forms that customers may complete and lodge with Council. Before adoption of a new form, a draft form will be reviewed for compliance with Information Protection Principle 4 by the EEO Officer, Council's solicitor, Public Officer or other suitable person. Should Council have any residual doubts, the opinion of the Information and Privacy Commission NSW will be sought.

Additional Clause Adopted by Council

In respect of this IPP as it relates to closed circuit television, please refer to Council's CCTV Surveillance Systems Determination.

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Information Protection Principle 5

Retention and security of personal information

Section 12 Retention and security of personal information

A public sector agency that holds personal information must ensure:

- (a) that the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and
- (b) that the information is disposed of securely and in accordance with any requirements for the retention and disposal of personal information, and
- (c) that the information is protected, by taking such security safeguards as are reasonable in the circumstances, against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and
- (d) that, if it is necessary for the information to be given to a person in connection with the provision of a service to the agency, everything reasonably within the power of the agency is done to prevent unauthorised use or disclosure of the information.

The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

Council Policy

Council may comply with this principle by using any or all of the following or similar documents:

- " Records and Archives Services Manual;
- " Council's Policy on Security of and Access to Misconduct Files;
- " Council's Internet Security Policy;
- Information Technology Security Policy; and
- " General Records Disposal Schedule for Local Government.

Additional Clause Adopted by Council

In respect of this IPP as it relates to closed circuit television, please refer to Council's CCTV Surveillance Systems Determination.

Disclosure of information for research purposes

The disclosure of personal information for research purposes will be allowed only in accordance with any applicable Direction made by the Privacy Commissioner under section 41 of PPIPA or any Research Code of Practice made by the Attorney General as may be in force for the time being.

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Information Protection Principle 6

Information held by agencies

Section 13 Information about personal information held by agencies

A public sector agency that holds personal information must take such steps as are, in the circumstances, reasonable to enable any person to ascertain:

- (a) whether the agency holds personal information, and
- (b) whether the agency holds personal information relating to that person, and
- (c) if the agency holds personal information relating to that person:
 - (i) the nature of that information, and
 - (ii) the main purposes for which the information is used, and
 - (iii) that person's entitlement to gain access to the information.

The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

Council Policy

Section 13 of the PPIPA requires a council to take reasonable steps to enable a person to determine whether Council holds personal information about them. If Council holds any information about a person, upon request it will advise them the nature of that information, the main purposes for which it is held, and that person's entitlement to access. As a matter of practicality, not every item of personal information, however insignificant, will be capable of ascertainment.

Under section 20(5) of the PPIPA, Information Protection Principle 6 is subject to any applicable conditions or limitations contained in the Government Information (Public Access) Act 2009 ("GIPA Act").

Any person can make application to Council by completing the appropriate form and submitting it to Council. An example is at Appendix 4.

Where council receives an application or request by a person as to whether council holds information about them, council will undertake a search of its records to answer the enquiry. Council may ask the applicant to describe what dealings the applicant has had with council in order to assist council to conduct the search.

Council will ordinarily provide a response to applications of this kind within 28 days of the application being made.

Investigative Code of Practice

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 6.

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Existing exemptions under the Act

Compliance with Information Protection Principle 6 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25 (a) of the PPIPA permits non-compliance with Information Protection Principle 6 where Council is lawfully authorised or required not to comply with the principle.

Section 25 (b) of the PPIPA permits non-compliance with Information Protection Principle 6 where noncompliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Reporting matters

Council will issue a statement to be included on its Web page and in its Annual Report concerning the nature of personal information it regularly collects, the purpose for which the personal information is used and an individual's right to access their own personal information.

Information Protection Principle 7

Access to personal information held by agencies

Section 14 Access to personal information held by agencies

A public sector agency that holds personal information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.

The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

Council Policy

Section 14 of the PPIPA requires a council, at the request of any person, to give access to that person to personal information held about them.

Compliance with Information Protection Principle 7 does not allow disclosure of information about other people. If access to information that relates to someone else is sought, the application must be made under the GIPA Act, unless Information Protection Principles 11 and 12 or the Public Register provisions apply.

Where a person makes an application for access under the PPIPA and it is involved or complex, it may be referred, with the written consent of the applicant, as an application under the GIPA Act. However use of the GIPA Act is to be a last resort. The applicant has the right to insist on being dealt with under PPIPA.

Under Section 20(5) of the PPIPA, Information Protection Principle 7 is subject to any applicable conditions or limitations contained in the GIPA Act. Council must consider the relevant provisions of the GIPA Act.

Page 25 of 67 Date: 8 August 2018 11 May 2022 Customers wishing to exercise their right of access to their own personal information should apply in writing or direct their inquiries to the General Manager, who will make a determination. A sample form is provided at Appendix 5.

Members of staff wishing to exercise their right of access to their personal information should apply in writing on the attached form or direct their inquiries to the Manager, People and Culture, who will deal with the application.

In order to comply with the requirement to provide the requested information "without excessive delay or expense", Council will ordinarily provide a response to applications of this kind within 28 days of the application being made.

Additional Clause Adopted by Council

In respect of this IPP as it relates to closed circuit television, please refer to Council's CCTV Surveillance Systems Determination.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 7.

Existing exemptions under the Act

Compliance with Information Protection Principle 7 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25(a) of the PPIPA permits non-compliance with Information Protection Principle 7 where Council is lawfully authorised or required not to comply with the principle.

Section 25(b) of the PPIPA non-compliance with Information Protection Principle 7 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Information Protection Principle 8

Alteration of personal information

Section 15 Alteration of personal information

A public sector agency that holds personal information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the personal information:
 (a) is accurate, and

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- (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.
- (2) If a public sector agency is not prepared to amend personal information in accordance with a request by the individual to whom the information relates, the agency must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.
- (3) If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the public sector agency.
- (4) This section, and any provision of privacy code of practice that relates to the requirements set out in this section, apply to public sector agencies despite section 25 of this Act and section 21 of the State Records Act 1998
- (5) The Privacy Commissioner's guidelines under section 36 may make provision for or with respect to requests under this section, including the way in which such a request should be made and the time within which such a request should be dealt with.
- (6) In this section (and in any other provision of this Act in connection with the operation of this section), **public sector agency** includes a Minister and a Minister's personal staff.

The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

Council Policy

Section 15 of the PPIPA allows a person to make an application to council to amend (this includes by way of corrections, deletions or additions) personal information held about them so as to ensure the information is accurate, and, having regard to the purpose for which the information is collected, relevant to that purpose, up to date and not misleading.

Council wishes to have its information current, accurate and complete. Proposed amendments or changes to the personal information held by Council are welcomed.

If Council declines to amend personal information as requested, it will on request of the individual concerned, place an addendum on the information in accordance with section 15(2) of the PPIPA.

Where there are complaints that are or could be the subject of a staff complaint or grievance, they will be referred to the Manager, People and Culture in the first instance and treated in accordance with Council's procedures for grievance and complaint handling.

Any alterations that are or could be the subject of a customer complaint or grievance will be referred to the General Manager, who will make a determination in relation to the matter.

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Investigative Code of Practice

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 8.

Existing exemptions under the Act

Compliance with Information Protection Principle 8 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 25 (a) of the PPIPA permits non-compliance with Information Protection Principle 8 where Council is lawfully authorised or required not to comply with the principle.

Section 25 (b) of the PPIPA permits non-compliance with section Information Protection Principle 8 where non-compliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Procedure

Where information is requested to be amended, either by way of correction, deletion or addition, the individual to whom the information relates, must make a request. That request should be accompanied by appropriate evidence as to the cogency of the making of the amendment, sufficient to satisfy Council that the proposed amendment is factually correct and appropriate. Council may require further documentary evidence to support certain amendments. Council will not charge to process an application to amend a record under s.15.

Council's application form for alteration under IPP 8 is at Appendix 6 at the end of this Plan.

Where Council is not prepared to amend

If Council is not prepared to amend the personal information in accordance with a request by the individual Council may attach to the information in such a manner as is capable of being read with the information, any statement provided by that individual.

Where an amendment is made

If personal information is amended in accordance with this section, the individual to whom the information relates is entitled, if it is reasonably practicable, to have the recipients of that information notified of the amendments made by Council.

Council will seek to notify recipients of information as soon as possible, of the making of any amendment, where it is reasonably practicable.

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State Records Act

The State Records Act does not allow for the deletion of records. However, as a result of section 15(4) of the PPIPA, some deletions may be allowed in accordance with Information Protection Principle 8.

Information Protection Principle 9

Agency must check accuracy of personal information before use

Section 16 Agency must check accuracy of personal information before use

A public sector agency that holds personal information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate, up to date, complete and not misleading.

The Privacy Code of Practice for Local Government

The Code makes no provision to depart from this principle.

Council Policy

The steps taken to comply with section 16 will depend on the age of the information, its likelihood of change and the particular function for which the information was collected.

The more significant the information, the greater the necessity that checks to ensure its accuracy and currency be undertaken prior to its use.

For example, each employee's record should be updated when there is any change of circumstances or when the employee's contact details change.

Information Protection Principle 10

Limits on use of personal information

Section 17 Limits on use of personal information

A public sector agency that holds personal information must not use the information for a purpose other than that for which it was collected unless:

- (a) the individual to whom the information relates has consented to the use of the information for that other purpose, or
- (b) the other purpose for which the information is used is directly related to the purpose for which the information was collected, or
- (c) the use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual to whom the information relates or of another person.

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The Privacy Code of Practice for Local Government

The Code makes provision that Council may use personal information for a purpose other than the purpose for which it was created in the following circumstances:

- where the use is in pursuance of Council's lawful and proper function/s and Council is satisfied that the personal information is reasonably necessary for the exercise of such function/s; or
- where personal information is to be used for the purpose of conferring upon a particular person, an award, prize, benefit or similar form of personal recognition.

Explanatory Note

Council may use personal information obtained for one purpose for another purpose in pursuance of its lawful and proper functions. For example, the Rates Record that Council holds under section 602 of the LGA may also be used to:

- " notify neighbours of a proposed development;
- " evaluate a road opening; or
- evaluate a tree preservation order.

Council Policy

Council will seek to ensure that information collected for one purpose will be used for that same purpose. Where Council may need to use personal information collected for one purpose for another purpose, it will first gain the consent of the individual concerned, unless an exemption applies. <u>External and related bodies</u>

Each of the following will be required to comply with the Information Protection Principle 10:

- " Council owned businesses
- " Council consultants;
- Private contractors; and
- " Council committees.

Council will seek to contractually bind each of these bodies or persons to comply.

Where any of the above seek to use personal information collected for one purpose, that body or person will be required to obtain the written consent of those persons in accordance with section 17 (a) to the use of the information for another purpose.

The form of consent should include the following elements:

hereby consent under section 17(a) of the Privacy and Personal Information Protection Act 1998 to Council using the information collected from me by (insert name of collecting body or person) for the purpose of......(insert purpose/s information was collected for).

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Signature			 	
Name (to be pri	nted)		 	
Date signed	1	1		

Additional Clause Adopted by Council

In respect of this IPP as it relates to closed circuit television, please refer to Council's CCTV Surveillance Systems Determination.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 10.

Existing exemptions under the Act

Compliance with Information Protection Principle 10 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 23(4) of the PPIPA permits Council not to comply with Information Protection Principle 10 where the use of the information for another purpose is reasonably necessary for law enforcement purposes or for the protection of the public revenue. *Law enforcement purposes* means a breach of the criminal law and criminal law enforcement. This section does not remove the rights of an accused person. *Protection of the public revenue* means a fraud with respect to taxes or other revenue earning processes such as avoidance of stamp duty.

Section 24 (4) of the PPIPA extends the operation of section 24(2) to councils and permits non-compliance with Information Protection Principle 10 if:

- (i) investigating or otherwise handling a complaint or other matter that could be referred or made to, or has been referred from or made by, an investigative agency; and
- (ii) the use of the information concerned for a purpose other than the purpose for which it was collected is reasonably necessary in order to enable Council to exercise its complaint handling or investigative functions.

Section 25 (a) of the PPIPA permits non-compliance with Information Protection Principle 10 where Council is lawfully authorised or required not to comply with the principle.

Section 25 (b) of the PPIPA permits non-compliance with Information Protection Principle 10 where noncompliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 28(3) of the PPIPA permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (eg., the Office of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister's (or Premier's) administration.

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Information Protection Principle 11

Limits on disclosure of personal information

Section 18 Limits on disclosure of personal information

- (1) A public sector agency that holds personal information must not disclose the information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency, unless:
 - (a) the disclosure is directly related to the purpose for which the information was collected, and the agency disclosing the information has no reason to believe that the individual concerned would object to the disclosure, or
 - (b) the individual concerned is reasonably likely to have been aware, or has been made aware in accordance with section 10, that information of that kind is usually disclosed to that other person or body, or
 - (c) the agency believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.
- (2) If personal information is disclosed in accordance with subsection (1) to a person or body that is a public sector agency, that agency must not use or disclose the information for a purpose other than the purpose for which the information was given to it.

The Privacy Code of Practice for Local Government

The Code makes provision for council to depart from this principle in the circumstances described below:

- Council may disclose personal information to public sector agencies or public utilities on condition that:
 - (i) the agency or utility provider has approached Council in writing;
 - (ii) Council is satisfied that the information is to be used by that agency<u>or utility provider</u> for the proper and lawful function/s of that agency, and
 - (iii) Council is satisfied that the personal information is reasonably necessary for the exercise of that agency or utility provider's function/s.
- Where personal information which has been collected about an individual is to be disclosed for the purpose of conferring upon that person, an award, prize, benefit or similar form of personal recognition.
- 3. Where Council is requested by a potential employer, it may verify:
 - (i) -that a current or former employee works or has worked for Council,
 - (ii) the duration of that worktheir employment, and
 - (iii) the position occupied during that timetheir employment.

-This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has

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provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.

4. A disclosure of personal information for research purposes will be allowed under a section 41 Direction made by the Privacy Commissioner (if such a direction exists) until such time as a Research Code of Practice is made by the Attorney General.

Council Policy

Council will not disclose the information to another person or other body, unless the disclosure is directly related to the purpose for which the information was collected or where Council has no reason to believe that the individual concerned would object to the disclosure.

Council may disclose personal information to another person or other body where this disclosure is directly related to the purpose for which the personal information was collected and the individual concerned is reasonably likely to have been aware, (or has been made aware in accordance with section 10), of the intended recipients of that information. "Directly related" can mean the disclosure to another person or agency to deliver a service which supplements that of Council or disclosure to a consultant for the purpose of assessing or reviewing the delivery of a program to which the original collection relates.

Council may disclose personal information to another person or other body where this disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person.

Additional Clause Adopted by Council

In respect of this IPP as it relates to closed circuit television, please refer to Council's CCTV Surveillance Systems Determination.

Public Registers

Sections 18 and 57 of PPIPA should be read in conjunction in regard to Public Registers. Public Registers are discussed further in Part 2 of this Plan.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 11.

Existing exemptions under the Act

Compliance with Information Protection Principle 11 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Page 33 of 67 Date: 8 August 2018<u>11 May 2022</u> Section 23(5)(a) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is made to a law enforcement agency in connection with proceedings for an offence or for law enforcement purposes. *Law enforcement purposes* means a breach of the criminal law and criminal law enforcement. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(b) of the PPIPA permits non-compliance with Information Protection Principle 11 where the disclosure is made to a law enforcement agency for the purpose of ascertaining the whereabouts of a person reported to be missing. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(c) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is authorised by subpoena, search warrant or other statutory instrument. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(d)(i) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is reasonably necessary for the protection of the public revenue. *Protection of the public revenue* could mean a fraud with respect to taxes or other revenue earning processes such as avoidance of stamp duty. However Council need not disclose material that it is entitled to refuse in the absence of a subpoena, warrant or other lawful requirement.

Section 23(5)(d)(ii) of the PPIPA permits non-compliance with Information Protection Principle 11 where disclosure is reasonably necessary to investigate an offence where there are reasonable grounds to believe an offence has been committed.

Section 24(4) of the PPIPA permits non-compliance with Information Protection Principle 11 if:

- (i) investigating a complaint that could be referred or made to, or has been referred from or made by, an investigative agency, and
- (ii) if the disclosure is to an investigative agency.

(Note: "investigative agency" is defined at s.3 of PPIPA.)

Section 25 (a) of the PPIPA permits non-compliance with Information Protection Principle 11 where Council is lawfully authorised or required not to comply with the principle.

Section 25 (b) of the PPIPA permits non-compliance with Information Protection Principle 11 where noncompliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(2) of the PPIPA permits non-compliance where the person expressly consents to such noncompliance.

Section 28(3) of the PPIPA permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (eg. the Office of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister's (or Premier's) administration.

Page 34 of 67 Date: <u>8 August 2018/11 May 2022</u> It is anticipated that a disclosure of personal information for research purposes will be allowed under a s.41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by the Attorney General.

Suppression

Information held by Council may be suppressed such as to disallow disclosure that would otherwise be allowed in the circumstances outlined above. See Part 1 of this Plan for more details about suppression of personal information.

Information Protection Principle 12

Special restrictions on disclosure of personal information

Section 19 Special restrictions on disclosure of personal information

- (1) A public sector agency must not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.
- (2) A public sector agency that holds personal information must not disclose the information to any person or body who is in a jurisdiction outside New South Wales unless:
 - (a) a relevant privacy law that applies to the personal information concerned is in force in the that jurisdiction, or
 - (b) the disclosure is permitted under a privacy code of practice.
- (3) For the purposes of subsection (2), a relevant privacy law means a law that is determined by the Privacy Commissioner, by notice published in the Gazette, to be a privacy law for the jurisdiction concerned.
- (4) The Privacy Commissioner is to prepare a code relating to the disclosure of personal information by public sector agencies to persons or bodies outside New South Wales.
- (5) Subsection (2) does not apply:
 - (a) until after the first anniversary of the commencement of this section, or
 - (b) until a code referred to in subsection (4) is made,
 - whichever is the later.

The Privacy Code of Practice for Local Government

The Code makes provision for Council to depart from this principle in the circumstances described below:

- For the purposes of s.19(2)-only, where Council is requested by a potential employer outside New South Wales, it may verify that
 - (i)_____-a current or former employee works or has worked for Council,
 - (ii) the duration of that worktheir employment, and
 - (iii) ____-the position occupied during that time.

This exception shall not permit Council to give an opinion as to that person's suitability for a particular position with any potential employer unless Council is satisfied that the person has

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provided their consent for Council to provide a reference, which may include an opinion as to that person's suitability for the position for which he/she has applied.

Council Policy

Council will not disclose personal information relating to an individual's ethnic or racial origin, political opinions, religious or philosophical beliefs, trade union membership, health or sexual activities unless the disclosure is necessary to prevent a serious or imminent threat to the life or health of the individual concerned or another person.

Additional Clause Adopted by Council

In respect of this IPP as it relates to closed circuit television, please refer to Council's CCTV Surveillance Systems Determination.

Public Registers

Sections 19 and 57 of the PPIPA should be read in conjunction in regard to Public Registers. Public Registers are discussed further in Part 2 of this Plan.

Investigative Functions

Where Council is conducting an investigation, it will have regard to any applicable Direction of the Privacy Commissioner under section 41 of the PPIPA that may affect the application of Information Protection Principle 12.

Existing exemptions under the Act

Compliance with Information Protection Principle 12 is also subject to certain exemptions under the Act. If one of those exemptions apply, Council need not comply. The statutory exemption will be relied upon only in limited circumstances and legal advice should normally be obtained.

Section 23(7) of the PPIPA permits non-compliance with Information Protection Principle 12 where the disclosure is necessary to investigate an offence or where there are reasonable grounds to believe an offence has been or may be committed.

Section 25 (a) of the PPIPA permits non-compliance with Information Protection Principle 12 where Council is lawfully authorised or required not to comply with the principle.

Section 25 (b) of the PPIPA permits non-compliance with Information Protection Principle 12 where noncompliance is "necessarily implied" or "reasonably contemplated" under any Act or law.

Section 26(2) of the PPIPA permits non-compliance where the person expressly consents to such noncompliance.

Section 28(2) permits non-compliance with Information Protection Principle 12 where, in the case of health information, the consent of the person cannot reasonably be obtained and the disclosure is made by an

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authorised person to another authorised person. "Authorised person" means a medical practitioner, health worker, or other official or employee providing health or community services who is employed or engaged by a public sector agency.

Section 28(3) of the PPIPA permits non-compliance where a disclosure is to be made to a public sector agency under the administration of the Minister for Local Government (eg. the Office of Local Government) or a public sector agency under the administration of the Premier for the purpose of informing the Minister (or Premier) about any matter within the Minister's (or Premier's) administration.

It is anticipated that a disclosure of personal information for research purposes will be allowed under a s.41 Direction made by the Privacy Commissioner until such time as a Research Code of Practice is made by the Attorney General.

Suppression

Information held by Council may be suppressed such as to disallow disclosure that would otherwise be allowed in the circumstances outlined above. See Part 1 of this Plan for more details about suppression of personal information.

Part 4 – Health Privacy Principles

In 2002, most references to 'health information' were taken out of the PPIPA and separate legislation was enacted. The HRIPA was enacted to deal with this specific type of personal information. On and from September 2004, various agencies and organisations, including local councils were expected to comply with the HRIPA in their collection and management of health information.

Health information includes personal information that is information or an opinion about the physical or mental health or a disability of an individual. Health information *also* includes personal information that is information or an opinion about:

- a health service provided, or to be provided, to an individual;
- an individual's express wishes about the future provision of health services to him or her;
- · other personal information collected in connection with the donation of human tissue; or
- genetic information that is or could be predictive of the health of an individual or their relatives or descendants.

Health information is defined in section 6 of the HRIPA. Local councils will often hold health information by reason of their role in elder care, child care and various types of community health support services. It is therefore very important for councils to be familiar with the 15 Health Protection Principles ("HPP") set down in Schedule 1 to the HRIPA. Each of these HPPs are considered below.

The following is a non-exhaustive list of examples of the types of health information and circumstances in which councils may collect health information in exercising their functions:

 Tree pruning/removal application where residents approach council for a reconsideration or reassessment of a tree pruning/removal application on medical grounds;

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- Issuing of clean up orders which may include recording information about a residents health, GP
 professional contact details or involvement with mental health services;
- Volunteer programs where volunteers are asked to disclose health conditions which may preclude them from some types of volunteer work;
- Meals on wheels programs where residents may be asked for medical or dietary requirements, e.g. allergies for catering purposes;
- Seniors bus outings where information may be collected on special medical needs;
- Councils may provide respite and social support services collecting information that is consistent with the client intake and referral record system;
- Information on families for the purposes of children's services. e.g. history of illness, allergies, asthma, diabetes, epilepsy etc;
- Physical exercise classes;
- Some councils run Podiatry services;
- Information may be collected through a healthy community program;
- Children's immunization records; and
- Family counsellor/youth support workers records.

HPPs 1-4 concern the collection of health information, HPP 5 concerns the storage of health information, HPPs 6-9 concern the access and accuracy of health information, HPP 10 concerns the use of health information, HPP 11 concerns the disclosure of health information, HPPs 12-13 concern the identifiers and anonymity of the persons to which health information relate, HPPs 14-15 concern the transferral of health information and the linkage to health records across more than one organisation.

Health Privacy Principle 1

Purposes of collection of health information

- (1) An organisation must not collect health information unless:
 - (a) the information is collected for a lawful purpose that is directly related to a function or activity of the organisation, and
 - (b) the collection of the information is reasonably necessary for that purpose.
- (2) An organisation must not collect health information by any unlawful means.

Health Privacy Principle 2

Information must be relevant, not excessive, accurate and not intrusive

An organisation that collects health information from an individual must take such steps as are reasonable in the circumstances (having regard to the purposes for which the information is collected) to ensure that:

- (a) the information is collected is relevant to that purpose, is not excessive and is accurate, up to date and complete, and
- (b) the collection of the information does not intrude to an unreasonable extent on the personal

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affairs of the individual to whom the information relates.

Health Privacy Principle 3

Collection to be from the individual concerned

- (1) An organisation must collect health information about an individual only from that individual, unless it is unreasonable or impracticable to do so.
- (2) Health information is to be collected in accordance with any guidelines issued by the Privacy Commissioner for the purposes of this clause.

Health Privacy Principle 4

Individual to be made aware of certain matters

- (1) An organisation that collects health information about an individual from the individual must, at or before the time it collects the information (or if that is not practicable, as soon as practicable after that time), take steps that are reasonable in the circumstances to ensure that the individual is aware of the following:
 - (a) the identity of the organisation and how to contact it,
 - (b) the fact that the individual is able to request access to the information,
 - (c) the purposes for which the information is collected,
 - (d) the persons to whom (or the type of persons to whom) the organisation usually discloses information of that kind,
 - (e) any law that requires the particular information to be collected,
 - (f) the main consequences (if any) for the individual if all or part of the information is not provided.
- (2) If the organisation collects health information about an individual from someone else, it must take any steps that are reasonable in the circumstances to ensure that the individual is generally aware of the matters listed in subclause (1) except to the extent that:
 - (a) making the individual aware of the matters would impose a serious threat to the life or health of any individual, or
 - (b) the collection is made in accordance with guidelines issued under subclause (3).
- (3) The Privacy Commissioner may issue guidelines setting out circumstances in which an organisation is not required to comply with subclause (2).
- (4) An organisation is not required to comply with a requirement of this clause if:
 - (a) the individual to whom the information relates has expressly consented to the organisation not complying with it or,
 - (b) the organisation is lawfully authorised or required not to comply with it, or
 - (c) non-compliance is otherwise permitted (or necessarily implied or reasonably contemplated) under any Act or any other law including the State Records Act 1998), or
 - (d) compliance by the organisation would, in the circumstances, prejudice the interests of the

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individual to whom the information relates, or

- the information concerned is collected for law enforcement purposes or, (e)
- (f) the organisation is an investigative agency and compliance might detrimentally affect (or prevent the proper exercise of) its complaint handling functions or any of its investigative functions
- (5) If the organisation reasonably believes that the individual is incapable of understanding the general nature of the matters listed in subclause (1), the organisation must take steps that are reasonable in the circumstances, to ensure that any authorised representative of the individual is aware of those matters
- Subclause (4) (e) does not remove any protection provided by any other law in relation to the rights (6) of accused persons or persons suspected of having committed an offence.
- (7) The exemption provided by subclause (4) (f) extends to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.

Council Policy

Council will only collect health information for a lawful purpose that is directly related to Council's activities and is necessary for that purpose (HPP 1)

Council will ensure that the health information is relevant, accurate, up to date and not excessive and that the collection is not unnecessarily intrusive into the personal affairs of the individual (HPP 2).

Council will only collect health information directly from the individual that the information concerns, unless it is unreasonable or impractical for Council to do so. (HPP 3).

Council will tell the person why the health information is being collected, what will be done with it, who else might see it and what the consequences are if the person decides not to provide it. Council will also tell the person how he or she can see and correct the health information.

If Council collects health information about a person from someone else, Council will take reasonable steps to ensure that the subject of the information is aware of the above points (HPP 5).

Health Privacy Principle 5

Retention and Security

- (1) An organisation that holds health information must ensure that:
 - (a) the information is kept for no longer than is necessary for the purposes for which the information may lawfully be used, and
 - (b) the information is disposed of securely and in accordance with any requirements for the retention and disposal of health information, and

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- (c) the information is protected, by taking such security safeguards as are reasonable in the circumstances against loss, unauthorised access, use, modification or disclosure, and against all other misuse, and
- (d) if it is necessary for the information to be given to a person in connection with the provision of a service to the organisation, everything reasonably within the power of an organisation is done to prevent the unauthorised use or disclosure of the information.

Note. Division 2 (Retention of health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause.

- (2) An organisation is not required to comply with a requirement of this clause if:
 - (a) the organisation is lawfully authorised or required not to comply with it, or
 - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).
- (3) An investigative agency is not required to comply with subclause (1)(a).

Council Policy

Council will store health information securely and protect health information from unauthorised access, use or disclosure. Health information will not be kept for any longer than is necessary and will be disposed of appropriately (HPP 5).

Health Privacy Principle 6

Information about health information held by organisations

- (1) An organisation that holds health information must take such steps as are, in the circumstances, reasonable, to enable any individual to ascertain:
 - (a) whether the organisation holds health information, and
 - (b) whether the organisation holds health information relating to that individual, and
 - (c) if the organisation holds health information relating to that individual: (i) the nature of that information
 - (ii) the main purposes for which the information is used, and
 - (iii) that person's entitlement to request access to the information.
- (2) An organisation is not required to comply with a provision of this clause if:
 - (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
 - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under any Act or any other law (including the State Records Act 1998).

Health Privacy Principle 7

Access to health information

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(1) An organisation that holds health information must, at the request of the individual to whom the information relates and without excessive delay or expense, provide the individual with access to the information.

Note. Division 3 (Access to health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause. Access to health information held by public sector agencies may also be available under the *Government Information (Public Access) Act 2009* or the *State Records Act 1998*.

- (2) An organisation is not required to comply with a provision of this clause if:
 - (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
 - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).

Health Privacy Principle 8

Amendment of health information

- (1) An organisation that holds health information must, at the request of the individual to whom the information relates, make appropriate amendments (whether by way of corrections, deletions or additions) to ensure that the health information:
 - (a) is accurate, and
 - (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to day, complete and not misleading.
- (2) If an organisation is not prepared to amend health information under subclause (1) in accordance with a request by the information to whom the information relates, the organisation must, if so requested by the individual concerned, take such steps as are reasonable to attach to the information, in such a manner as is capable of being read with the information, any statement provided by that individual of the amendment sought.
- (3) If health information is amended in accordance with this clause, the individual to whom the information relates is entitled, if it is reasonably practicable, to have recipients of that information notified of the amendments made by the organisation.

Note. Division 4 (Amendment of health information) of Part 4 contains provisions applicable to private sector persons in connection with the matters dealt with in this clause.

Amendment of health information held by public sector agencies may also be able to be sought under the *Privacy and Personal Information Protection Act 1998*.

- (4) An organisation is not required to comply with a provision of this clause if:
 - (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
 - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably

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ATTACHMENT 2 - ITEM 1

contemplated) under an Act or any other law (including the State Records Act 1998).

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Accuracy

An organisation that holds health information must not use the information without taking such steps as are reasonable in the circumstances to ensure that, having regard to the purpose for which the information is proposed to be used, the information is relevant, accurate and up to date, complete and not misleading.

Council Policy

Council will provide details about what health information Council is holding about an individual and with information about why Council is storing that information and what rights of access the individual has (HPP 6).

Council will allow the individual to access his or her health information without reasonable delay or expense (HPP 7).

Council will allow the individual to update, correct or amend his or her health information where necessary (HPP 8).

Council will make sure that the health information is relevant and accurate before using it (HPP 9).

Health Privacy Principle 10

(1) An organisation that holds health information must not use the information for a purpose (a secondary purpose) other than the purpose (the primary purpose) for which it was collected unless:

(a) Consent

the individual to whom the information relates has consented to the use of the information for that secondary purpose, or

(b) Direct relation

the secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to use the information for the secondary purpose or,

Note: For example, if information is collected in order to provide a health service to the individual, the use of the information to provide a further health service to the individual is a secondary purpose directly related to the primary purpose.

(c) Serious threat to health or welfare

the use of the information for the secondary purpose is reasonably believed by the organisation to be necessary to lessen or prevent:

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- (i) a serious and imminent threat to the life, health or safety of the individual or another person, or
- (ii) a serious threat to public health and safety, or

(c1) Genetic information

the information is genetic information and the use of the information for the secondary purpose:

- (i) is reasonably believed by the organisation to be necessary to lessen or prevent a serious threat to the life, health or safety (whether or not the threat is imminent) of a genetic relative of the individual to whom the genetic information relates, and
- (ii) is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or

(d) Management of health services

the use of the information for the secondary purpose is reasonably necessary for the funding, management, planning or evaluation of health services and:

- (i) either:
 - (A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or
 (D) manufacture to be a served by the individual or from which the individual or from which the individual for the use, or
 - (B) reasonable steps are taken to de-identify the information, and
- (ii) if the information is in a form that could reasonably be expected to identify individuals, the information is not published in a generally available publication, and
- (iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or

(e) Training

the use of the information for the secondary purpose is reasonably necessary for the training of employees of the organisation or persons working with the organisation and:

- (i) either:
 - (A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or
 - (B) reasonable steps are taken to de-identify the information, and
- (ii) if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and
- (iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or

(f) Research

the use of the information for the secondary purpose is reasonably necessary for research,

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or the compilation or analysis of statistics, in the public interest and:

(i) either:

- (A) that purpose cannot be served by the use of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the use, or
- (B) reasonable steps are taken to de-identify the information, and
- (ii) if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and
- (iii) the use of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purpose of this paragraph, or

(g) Find missing person

the use of the information for the secondary purpose is by a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person, or

(h) Suspected unlawful activity, unsatisfactory professional conduct or breach of discipline

the organisation:

- (i) has reasonable grounds to suspect that:
 - (A) unlawful activity has been or may be engaged in, or
 - (B) a person has or may have engaged in conduct that may be unsatisfactory professional conduct or professional misconduct under the Health Practitioner Regulation National Law (NSW), or
 - (C) an employee of the organisation has or may have engaged in conduct that may be grounds for disciplinary action, and
- (ii) uses the health information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities, or

(i) Law enforcement

the use of the information for the secondary purpose is reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed, or

(j) Investigative agencies

the use of the information for the secondary purpose is reasonably necessary for the exercise of complaint handling functions or investigative functions by investigative agencies, or

(k) Prescribed circumstances

Page 46 of 67 Date: 8-August 2018<u>11 May 2022</u> the use of the information for the secondary purpose is in the circumstances prescribed by the regulations for the purposes of this paragraph.

- (2) An organisation is not required to comply with a provision of this clause if:
 - (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
 - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998).
- (3) The Ombudsman's Office, Health Care Complaints Commission, Anti-Discrimination Board and Community Services Commission are not required to comply with a provision of this clause in relation to their complaint handling functions and their investigative, review and reporting functions.
- (4) Nothing in this clause prevents or restricts the disclosure of health information by a public sector agency:
 - (a) to another public sector agency under the administration of the same Minister if the disclosure is for the purposes of informing that Minister about any matter within that administration, or
 - (b) to any public sector agency under the administration of the Premier, if the disclosure is for the purposes of informing the Premier about any matter.
- (5) The exemption provided by subclause (1) (j) extends to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.

Council Policy

Council will only use the health information for the purpose for which it was collected or for a directly related purpose that the individual to whom the information relates would expect. Otherwise, Council will obtain the individual's consent (HPP 10).

Health Privacy Principle 11

(1) An organisation that holds health information must not disclose the information for a purpose (a secondary purpose) other than the purpose (the primary purpose) for which it was collected unless:

(a) Consent

the individual to whom the information relates has consented to the disclosure of the information for that secondary purpose, or

(b) Direct relation

Page 47 of 67 Date: <u>8 August 201811 May 2022</u> the secondary purpose is directly related to the primary purpose and the individual would reasonably expect the organisation to disclose the information for the secondary purpose, or Note: For example, if information is collected in order to provide a health service to the individual, the disclosure of the information to provide a further health service to the individual is a secondary purpose directly related to the primary purpose.

(c) Serious threat to health or welfare

the disclosure of the information for the secondary purpose is reasonably believed by the organisation to be necessary to lessen or prevent:

- (i) a serious and imminent threat to the life, health or safety of the individual or another person, or
- (ii) a serious threat to public health or public safety, or

(c1) Genetic information

the information is genetic information and the use of the information for the secondary purpose:

- (i) is reasonably believed by the organisation to be necessary to lessen or prevent a serious threat to the life, health or safety (whether or not the threat is imminent) of a genetic relative of the individual to whom the genetic information relates, and
- (ii) is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or

(d) Management of health services

the disclosure of the information for the secondary purpose is reasonably necessary for the funding, management, planning or evaluation of health services and:

- (i) either:
 - (A) that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or
 - (B) reasonable steps are taken to de-identify the information, and
- (ii) if the information could reasonably be expected to identify individuals, the information is not published in a generally available publication, and
- (iii) the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or

(e) Training

the disclosure of the information for the secondary purpose is reasonably necessary for the training of employees of the organisation or persons working with the organisation and:

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- (i) either:
 - (A) that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or
 - (B) reasonable steps are taken to de-identify the information, and
- (ii) if the information could reasonably be expected to identify the individual, the information is not made publicly available, and
- (iii) the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or

(f) Research

(i)

the disclosure of the information for the secondary purpose is reasonably necessary for research, or the compilation or analysis of statistics, in the public interest and:

- either:
 - (A) that purpose cannot be served by the disclosure of information that does not identify the individual or from which the individual's identity cannot reasonably be ascertained and it is impracticable for the organisation to seek the consent of the individual for the disclosure, or
 - (B) reasonable steps are taken to de-identify the information, and
- (ii) the disclosure will not be published in a form that identifies particular individuals or from which an individual's identity can reasonably be ascertained, and
- (iii) the disclosure of the information is in accordance with guidelines, if any, issued by the Privacy Commissioner for the purposes of this paragraph, or

(g) Compassionate reasons

the disclosure of the information for the secondary purpose is to provide the information to an immediate family member of the individual for compassionate reasons and:

- (i) the disclosure is limited to the extent reasonable for those compassionate reasons, and
- (ii) the individual is incapable of giving consent to the disclosure of the information, and
- (iii) the disclosure is not contrary to any wish expressed by the individual (and not withdrawn) of which the organisation was aware or could make itself aware by taking reasonable steps, and
- (iv) if the immediate family member is under the age of 18 years, the organisation reasonably believes that the family member has sufficient maturity in the circumstances to receive the information, or

(h) Finding missing person

the disclosure of the information for the secondary purpose is to a law enforcement agency (or such other person or organisation as may be prescribed by the regulations) for the purposes of ascertaining the whereabouts of an individual who has been reported to a police officer as a missing person, or

(i) Suspected unlawful activity, unsatisfactory professional conduct or breach of

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discipline

the organisation:

(i) has reasonable grounds to suspect that:

- (A) unlawful activity has been or may be engaged in, or
- (B) a person has or may have engaged in conduct that may be unsatisfactory professional conduct or professional misconduct under a the Health Practitioner Regulation National Law (NSW), or
- (C) an employee of the organisation has or may have engaged in conduct that may be grounds for disciplinary action, and
- (ii) discloses the health information as a necessary part of its investigation of the matter or in reporting its concerns to relevant persons or authorities, or

(j) Law enforcement

the disclosure of the information for the secondary purpose is reasonably necessary for the exercise of law enforcement functions by law enforcement agencies in circumstances where there are reasonable grounds to believe that an offence may have been, or may be, committed, or

(k) Investigative agencies

the disclosure of the information for the secondary purpose is reasonably necessary for the exercise of complaint handling functions or investigative functions by investigative agencies, or

(I) Prescribed circumstances

the disclosure of the information for the secondary purpose is in the circumstances prescribed by the regulations for the purposes of this paragraph.

- (2) An organisation is not required to comply with a provision of this clause if:
 - (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
 - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998), or
 - (c) the organisation is an investigative agency disclosing information to another investigative agency.
- (3) The Ombudsman's Office, Health Care Complaints Commission, Anti-Discrimination Board and Community Services Commission are not required to comply with a provision of this clause in relation to their complaint handling functions and their investigative, review and reporting functions.
- (4) Nothing in this clause prevents or restricts the disclosure of health information by a public sector agency:
 - (a) to another public sector agency under the administration of the same Minister if the

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disclosure is for the purposes of informing that Minister about any matter within that administration, or

- (b) to any public sector agency under the administration of the Premier, if the disclosure is for the purposes of informing the Premier about any matter.
- (5) If health information is disclosed in accordance with subclause (1), the person, body or organisation to whom it was disclosed must not use or disclose the information for a purpose other than the purpose for which the information was given to it.
- (6) The exemptions provided by subclauses (1) (k) and (2) extend to any public sector agency, or public sector official, who is investigating or otherwise handling a complaint or other matter that could be referred or made to an investigative agency, or that has been referred from or made by an investigative agency.

Council Policy

Council will only disclose health information under the following circumstances:

- With the consent of the individual to whom the information relates; or
- For the purpose for which the health information was collected or a directly related purpose that the individual to whom it relates would expect; or
- If an exemption applies (HPP 11).

Health Privacy Principle 12

Identifiers

- (1) An organisation may only assign identifiers to individuals if the assignment of identifiers is reasonably necessary to enable the organisation to carry out any of its functions efficiently.
- (2) Subject to subclause (4), a private sector person may only adopt as its own identifier of an individual an identifier of an individual that has been assigned by a public sector agency (or by an agent of, or contractor to, a public sector agency acting in its capacity as agent or contractor) if:
 - (a) the individual has consented to the adoption of the same identifier, or
 - (b) the use or disclosure of the identifier is required or authorised by or under law.
- (3) Subject to subclause (4), a private sector person may only use or disclose an identifier assigned to an individual by a public sector agency (or by an agent of, or contractor to, a public sector agency acting in its capacity as agent or contractor) if:
 - (a) the use or disclosure is required for the purpose for which it was assigned or for a secondary purpose referred to in one or more paragraphs of HPP 10 (1) (c)-(k) or 11 (1) (c)-(l), or
 - (b) the individual has consented to the use or disclosure, or
 - (c) the disclosure is to the public sector agency that assigned the identifier to enable the public

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- (4) If the use or disclosure of an identifier assigned to an individual by a public sector agency is necessary for a private sector person to fulfil its obligations to, or the requirements of, the public sector agency, a private sector person may either:
 - (a) adopt as its own identifier of an individual an identifier of the individual that has been assigned by the public sector agency, or
 - (b) use or disclose an identifier of the individual that has been assigned by the public sector agency.

Council Policy

Council will only give an identification number to health information if it is reasonably necessary for Council to carry out its functions effectively (HPP 12).

Health Privacy Principle 13

Anonymity

Wherever it is lawful and practicable, individuals must be given the opportunity to not identify themselves when entering into transactions with or receiving health services from an organisation.

Council Policy

Council will provide health services anonymously where it is lawful and practical (HPP 13).

Health Privacy Principle 14

Transborder data flows and data flow to Commonwealth agencies.

An organisation must not transfer health information about an individual to any person or body who is in a jurisdiction outside New South Wales or to a Commonwealth agency unless:

- (a) the organisation reasonably believes that the recipient of the information is subject to a law, binding scheme or contract that effectively upholds principles for fair handling of the information that are substantially similar to the Health Privacy Principles, or
- (b) the individual consents to the transfer, or
- (c) the transfer is necessary for the performance of a contract between the individual and the organisation, or for the implementation of pre-contractual measures taken in response to the individual's request, or
- (d) the transfer is necessary for the conclusion or performance of a contract concluded in the interest of the individual between the organisation and a third party, or

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- (i) the transfer is for the benefit of the individual,
- (ii) it is impracticable to obtain the consent of the individual to that transfer,
- (iii) if it were practicable to obtain such consent, the individual would be likely to give it, or
- (f) the transfer is reasonably believed by the organisation to be necessary to lessen or prevent:
 - a serious and imminent threat to the life, health or safety of the individual or another person, or
 - (ii) a serious threat to public health or public safety, or
- (g) the organisation has taken reasonable steps to ensure that the information that it has transferred will not be held, used or disclosed by the recipient of the information inconsistently with the Health Privacy Principles, or
- (h) the transfer is permitted or required by an Act (including an Act of the Commonwealth) or any other law.

Council Policy

Council will only transfer personal information out of New South Wales if the requirements of Health Privacy Principle 14 are met.

Health Privacy Principle 15

Linkage of health records

- (1) An organisation must not:
 - (a) include health information about an individual in a health records linkage system unless the individual has expressly consented to the information being so included, or
 - (b) disclose an identifier of an individual to any person if the purpose of the disclosure is to include health information about the individual in a health records linkage system, unless the individual has expressly consented to the identifier being disclosed for that purpose.
- (2) An organisation is not required to comply with a provision of this clause if:
 - (a) the organisation is lawfully authorised or required not to comply with the provision concerned, or
 - (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the State Records Act 1998), or
 - (c) the inclusion of the health information about the individual in the health records information system (including an inclusion for which an identifier of the individual is to be disclosed) is a use of the information that complies with HPP 10 (1) (f) or a disclosure of the information that complies with HPP 11 (1) (f).

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(3) In this clause:

health record means an ongoing record of health care for an individual.

health records linkage system means a computerised system that is designed to link health records for an individual held by different organisations for the purpose of facilitating access to health records, and includes a system or class of systems prescribed by the regulations as being a health records linkage system, but does not include a system or class of systems prescribed by the regulations as not being a health records linkage system.

Council Policy

Council will only include health information in a system to link health records across more than one organisation if the individual to whom the health information relates expressly consents to the link (HPP 15).

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Part 5 – Implementation of the Privacy Management Plan

5.1 Training Seminars/Induction

During induction, all employees should be made aware that Council holds personal information about its employees in its human resources management system including personal information on their individual work performance or competency.

Councillors, all staff of Council including staff of council businesses, and members of council committees should be acquainted with the general provisions of the PPIPA, the HRIPA and in particular, the 12 Information Protection Principles, the 15 Health Privacy Principles (HPPs), the Public Register provisions, the Privacy Code of Practice for Local Government, this Plan and any other applicable Code of Practice.

5.2 Responsibilities of the Privacy Contact Officer

The Public Officer within Council will be assigned the role of the Privacy Contact Officer unless the General Manager has directed otherwise.

In order to ensure compliance with PPIPA and the HRIPA, the Privacy Contact Officer will provide advice to the organisation to ensure that all contracts and agreements by which personal information is collect by Council is in compliance with the PPIPA will review all contracts and agreements with consultants and other contractors, rates notices, application forms of whatsoever nature, and other written requests by which personal information is collected by Council, to ensure that Council is in compliance with the PPIPA.

Measures to ensure compliance with IPP 3 in particular may be by way of appropriate forms (see Appendices 2 and 3).

The Privacy Contact Officer will ensure Council in its public areas has special provisions for working with computer screens. Computer screens may require:

- fast screen savers;
- " face the computers away from the public; or
- " only allow the record system to show one record at a time.

Council's electronic databases should also be reviewed to ensure that they contain procedures and protocols to check the accuracy and currency of personal information.

The Privacy Contact Officer will also provide opinions within Council as to:

- (i) Whether the personal information is collected for a lawful purpose;
- (ii) If that lawful purpose is directly related to a function of Council; and
- (iii) Whether or not the collection of that personal information is reasonably necessary for the specified purpose.

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Any further concerns of a legal nature will be referred to Council's solicitor.

Should Council require, the Privacy Contact Officer may assign designated officers as "Privacy Resource Officers", within the larger departments of Council. In this manner Council may ensure that the information protection principles are more broadly understood and that individual departments have a greater focus on the information protection principles and are directly applied to Council's day to day functions.

5.3 Distribution of information to the public

Council may prepare its own literature such as pamphlets on the PPIPA and HRIPA or it may obtain and distribute copies of literature available from Privacy NSW.

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Part 6 - Internal Review

6.1 How does the process of Internal Review operate?

Under section 53 of the PPIPA a person (the applicant) who is aggrieved by the conduct of a council is entitled to a review of that conduct. An application for internal review is to be made within **6 months** of when the person first became aware of the conduct.

The application is to be in writing and addressed to Council's Privacy Contact Officer. The Privacy Contact Officer will appoint a Reviewing Officer to conduct the internal review. The Reviewing Officer must not be substantially involved in any matter relating to the application. The Reviewing Officer must be an employee and suitability qualified.

The review must be completed as soon as is reasonably practicable in the circumstances. If the review is not completed within **60 days** of the lodgement, the applicant is entitled to seek external review.

Council must notify the Privacy Commissioner of an application as soon as practicable after its receipt, keep the Commissioner informed of the progress of the application and inform the Commissioner of the findings of the review and of the action it proposes to take in relation to the application.

The Privacy Commissioner is entitled to make submissions in relation to internal reviews and Council is required to consider any relevant material submitted by the Privacy Commissioner. Council must provide the Privacy Commissioner with a draft of Council's internal review report to enable the Privacy Commissioner to make a submission.

Council may provide a copy of any submission by the Privacy Commissioner's to the applicant.

Council must notify the applicant of the outcome of the review within **14 days** of its determination. A copy of the final review should also be provided to the Privacy Commissioner where it departs from the draft review.

An internal review checklist has been prepared by the Information and Privacy Commissioner NSW and can be accessed from its website http://www.ipc.nsw.gov.au.

The Privacy Commissioner must be notified of a complaint, briefed on progress and notified of the outcome of an internal review under the PPIPA or HRIPA.

6.2 What happens after an Internal Review?

If the complainant remains unsatisfied, he/she may appeal to the NSW Civil and Administrative Tribunal which hears the matter afresh and may impose its own decision and award damages for a breach of an information protection principle or a health privacy principle to an amount up to \$40,000.00.

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Part 7 – Other Relevant Matters

7.1 Contracts with consultants and other private contractors

It is necessary to have specific provisions to protect Council in any dealings with private contractors.

7.2 Confidentiality

The obligation of confidentiality is additional to and separate from that of privacy. Nevertheless, a duty to withhold information lies at the heart of both concepts. Confidentiality attaches to information per se, personal information to the person to whom that information relates.

An obligation of confidentiality exists for all employees whether express or implied as a matter of law.

Information which may be confidential is also likely to have a separate and independent obligation attaching to it in the form of privacy and in that regard, a release for the purposes of confidentiality will not suffice for privacy purposes. Two separate releases will be required and, in the case of privacy, the person to whom the information relates will be required to provide the release.

7.3 Misuse of personal or health information

Section 664 of the LGA makes it an offence for anyone to disclose information except in accordance with that section. Whether or not a particular disclosure is made with lawful excuse is a matter that requires legal opinion from case to case.

7.4 Data Breach Protection and Procedures

Council's Information Security Management Plan, outlines the 4 key steps to consider when responding to a breach or suspected breach:

Step 1 Contain the breach and do a preliminary assessment

Step 2 Evaluate the risks associated with the breach

Step 3 Notification

Step 4 Prevent future breaches

Please refer to this management plan for further details.

7.45 Regular review of the collection, storage and use of personal information

The information practices relating to the collection, storage and use of personal or health information will be reviewed by Council every three (3) years. Any new program initiatives will be incorporated into the review process with a view to ascertaining whether or not those programs comply with the PPIPA.

7.56 Regular Review of Privacy Management Plan

Page 58 of 67 Date: 8 August 2018 11 May 2022 Once the information practices are reviewed from time to time, the Privacy Management Plan will also be reviewed to ensure that the Plan is up to date.

7.67 Further Information

For assistance in understanding the processes under the PPIPA and HRIPA, please contact Council or the Information and Privacy Commissioner NSW.

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Appendices	
	<u>Appendix 1</u>
Statutory Declaration For Access Under Section 57 Protection Act 1998 To A Public I	-
Statutory Declaration	
I, the undersigned,	(name of applicant)
of	(address),
in the State of New South Wales, do solemnly and sincerel	y declare that:-
I am	(relationship (if any) to person inquired about)
I seek to know whether	(name)
is on the public register of	*
The purpose for which I seek this information is	
The purpose for which the information is required is to	
And I make this solemn declaration conscientiously believing	ng the same to be true and by virtue of the Oaths
Act 1994.	(signature of applicant)
Declared at	
in the said State thisda	ay of 2000
before me:	
,	(printed name of Justice of the Peace/Solicitor)
	(signature of Justice of the Peace/Solicitor)
* Applicant to describe the relevant public register.	

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Privacy Notification Form - Section 10 (Pre – Collection)

(Addressed to the person from whom information is about to be collected.)

The personal information that Council is collecting from you is personal information for the purposes of the Privacy and Personal Information Protection Act 1998 (PPIPA).

The intended recipients of the personal information are:

	officers	within	Council;
--	----------	--------	----------

- " data service providers engaged by Council from time to time;
- any other agent of Council; and
- (any other).

The supply of the information by you *is / is not* voluntary. If you cannot provide or do not wish to provide the information sought, Council:

- May be unable to process your application
- ☐ Will be unable to process your application

Council is collecting this personal information from you in order to

You may make application for access or amendment to information held by Council. You may also make a request that Council suppress your personal information from a public register. Council will consider any such application in accordance with the PPIPA.

Council is to be regarded as the agency that holds the information. However, if it is *not* Council who holds or controls the information, please state below who does.

Enquiries concerning this matter can be addressed to			
Name (printed)			
Signature	Date	./	.1

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Privacy Notification Form - Section 10 (Post - Collection)

(Addressed to the person from whom information has been collected.)

The personal information that Council has collected from you is personal information for the purposes of the Privacy and Personal Information Protection Act 1998 (PPIPA).

The intended recipients of the personal information are:

officers within Co	ouncil;	

- data service providers engaged by Council from time to time;
- any other agent of Council; and

(any other).

The supply of the information by you *is / is not* voluntary. If you cannot provide or do not wish to provide the information sought, Council:

- May be unable to process your application
- Will be unable to process your application

Council has collected this personal information from you in order to

You may make application for access or amendment to information held by Council. You may also make a request that Council suppress your personal information from a public register. Council will consider any such application in accordance with the PPIPA.

Council is to be regarded as the agency that holds the information. However, if it is *not* Council who holds or controls the information, please state below who does.

Enquiries concerning this application should be made to	
Name (printed)	
Signature	Date

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<u>Application Under Section 13 Of The Privacy And Personal Information Protection Act 1998 –</u> <u>To Determine Whether Council Holds Personal Information About A Person</u>

Personal information held by Council
I,
of
hereby request the General Manager of Council provide the following :
Does Council hold personal information about me? YES / NO
If so, what is the nature of that information?
What is the main purpose for holding the information?
Am I entitled to access the information? YES / NO
My address for response to this Application is:

Note to applicants

Should you provide your address or any other contact details Council will not record those details for any other purpose other than to respond to your application.

Page 63 of 67 Date: <u>8 August 201811 May 2022</u> As an applicant, you have a right of access to personal information concerning yourself that is held by Council under section 14 of the Privacy and Personal Information Protection Act 1998 (PPIPA). There is a separate application form to gain access.

Council may refuse to process this application in part or in whole if:

- " there is an exemption to section 13 of the PPIPA; or
- " a Code of Practice may restrict the operation of section 14.

Enquiries concerning this matter can be addressed to Council's Privacy Contact Officer.

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<u>Application Under Section 14 Of The Privacy And Personal Information Protection Act 1998 -</u> <u>For Access To Applicant's Personal Information</u>

Personal information held by Council

I,	
of	(address)
hereb	y request that Council provide me with:
(a)	access to all personal information held concerning myself; or
(b)	access to the following personal information only
My ad	dress for response to this Application is:
Note t	o applicants ·

As an applicant, you have a right of access to your personal information held by Council under section 14 of the Privacy and Personal Information Protection Act 1998 ("the Act").

You are entitled to have access without excessive delay.

Council may refuse to process your Application in part or in whole if:

- there is an exemption to section 14 of the Act; or
- " a Code of Practice may restrict disclosure.

Enquiries concerning this application should be made to

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You have a right to request appropriate amendments are made (whether by way of corrections, deletions or additions) to ensure that the personal information held by Council :

- (a) is accurate, and
- (b) having regard to the purpose for which the information was collected (or is to be used) and to any purpose that is directly related to that purpose, is relevant, up to date, complete and not misleading.

If Council is not prepared to amend the personal information in accordance with a request by you, Council must take such steps as are reasonable to attach to the information in such a manner as is capable of being read with the information, any statement provided by you.

Page 66 of 67 Date: <u>8 August 201811 May 2022</u> If your personal information is amended, you are entitled under the Privacy and Personal Information Protection Act 1998 (PPIPA), <u>if it is reasonably practicable</u>, to the have recipients of that information notified of the amendments made by Council.

Council may refuse to process your application in part or in whole if:

- " there is an exemption to section 15 of the PPIPA; or
- " a Code of Practice may restrict alteration.

Enquiries concerning this application should be made to

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HORNSBY

POLICY REGISTER

	INFORMATION COMMUNICATIONS AND TECHNOLOGY AND TRANSFORMATION
FOLDER NUMBER:	F2207/00307
POLICY OWNER / DIVISION:	Corporate Support Division
POLICY OWNER / BRANCH:	Information Communications and Technology and Transformation
FUNCTION:	Information Communications and Technology and Transformation
RELEVANT LEGISLATION:	n/a
POLICY ADOPTION/AMENDMENT	DATE: 8-August 201811 May 2022 REPORT NUMBER: CS4/2233/18
REVIEW YEAR:	202 <u>5</u> 4
Amendment History:	9 March 2005 (Report CC5/05) 11 April 2007 (Report CC11/07) 8 April 2009 (Report CC12/09) 20 April 2011 (Report CC10/11) 17 April 2013 (Report GM2/13) 8 April 2015 (Report CS6/15) 8 August 2018 (Report CS33/18)
RELATED POLICIES/PLANS:	n/a

POLICY PURPOSE/OBJECTIVES:

To ensure Council is achieving maximum <u>benefit-value</u> by using the latest technology whenever appropriate.

POLICY STATEMENT:

The Information Communications and Technology and Transformation (T&T) Branch, in conjunction with the ICT_T&T_Steering Committee (Executive Committee (ExCo)) will make Council aware of trends in technology and how this technology may be aligned with the organisation's business

Page 1 of 2 Date printed: 2 July 2021 objectives. This will include proposals for evaluation, acquisition, installation, operation and maintenance of new hardware and software as required.

POLICY IMPLEMENTATION:

The Policy will be implemented through Council's Technology and Transformation Strategy, which outlines how technology will be leveraged to add value, increase productivity, and improve the customer experience.

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POLICY REGISTER

	DISPOSAL OF LAND
Folder Number:	F2007/00307
POLICY OWNER / DIVISION:	Corporate Support Division
POLICY OWNER / BRANCH:	Land and Property Services
FUNCTION	Council Property & Land
RELEVANT LEGISLATION: POLICY ADOPTION/AMENDMENT DATE:	Sections 8, 25, 55, 377 & 716 Local Government Act 1993 Section 43 Roads Act 1993 Crown Land Management Act 2016 8 August 201811 May 2022 REPORT NUMBER :
REVIEW YEAR:	CS33/18 <u>4/22</u> 2021 <u>2024</u>
Amendment History:	9 April 2009 (Report WK18/08) 10 June 2009 (Report WK20/09) 15 June 2011 (Report WK15/11) 17 April 2013 (Report GM2/13) 8 April 2015 (Report CS6/15) 8 August 2018 (Report CS33/18)

RELATED POLICIES:

POLICY PURPOSE / OBJECTIVES

- To acknowledge Council's charter that it is the custodian and trustee of public assets and is required to effectively account for and manage the assets for which it is responsible (Section 8 Local Government Act 1993).
- 2. To set out the principles, framework, responsibilities and processes for Council officers to account for and manage the disposal of Council land assets.
- 3. To identify, manage and mitigate the risks associated with the disposal of land.
- 4. To ensure impartiality, transparency, accountability and the delivery of best value in the disposal of land ("fundamental principles").

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 To provide appropriate levels of discretion and flexibility in achieving desired outcomes recognising the highly complex nature of land transactions, the wide variety of circumstances and methods of sale available.

POLICY STATEMENT:

1. <u>Fundamental Principles</u>

All decisions and actions in relation to the disposal of land will have due regard to the following fundamental principles:

- Best Value for Money Achieving "best value" may include financial, social and environmental benefits.
- Transparency processes are open to scrutiny, provide full information and the reasons behind decisions.
- Accountability demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails.
- Impartiality address perceived or actual conflicts of interests, ensuring fairness and equity.

2. Land Deemed to be Surplus

"Land" includes all real property whether vacant or improved. Land may not be sold by Council unless it is classified as "operational land" under section 25 of the Local Government Act 1993.

In order to establish whether or not land is deemed to be surplus, a process of consultation is required to be completed across relevant divisions of Council prior to reclassification in accordance with the Local Government Act, or application for road closure in accordance with the Roads Act.

3. Delegated Authority

Section 377 (1) (h) of the Local Government Act 1993 requires a specific resolution of Council to dispose of land. The decision cannot be delegated.

The resolution is to include reference (often contained within a confidential report) to the terms of the sale, any agreed price, or range for negotiations. The sale can not proceed outside of such parameters (without a further resolution).

The resolution should also provide for the General Manager to be provided with delegated authority to negotiate any outstanding (usually minor) conditions, and to be authorised to execute any documents in relation to the matter deemed appropriate by Council's legal advisors.

No formal actions may be commenced in the disposal of land until a report has been considered by Council and an appropriate resolution adopted.

Informal pre-sale discussions/negotiations must always be qualified "subject to resolution of Council" if there is no current resolution of Council to dispose of the land.

4. Valuation Processes

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At least one formal market valuation undertaken by a valuer registered to value such property is required to be commissioned prior to all property disposals.

Two valuations are required when the value of the property is likely to exceed \$50,000 and the process of disposal is not competitive (as defined below). The requirement for valuation(s) may be varied where, in the informed opinion of the General Manager or <u>Deputy General ManagerDirector</u>. Corporate Support Division, such action is impractical. Common examples would include (but not be limited to), sales of small parts of land and road widening strips.

An internal review of the valuation(s) is to be carried out and reported, with specific attention to the valuation rationale, method of valuation, calculations and sales evidence used. After such review, the valuation is to be considered in the setting of an asking price for sale, reserve price for auction or benchmark for negotiations, tender or expression of interest.

When two valuations have been provided, averaging is the preferred method for considering the price, when any difference in the valuation is 10% or less. Differences in valuations of more than 10% require an assessment of the reasons why they are different, and more detailed justification of the price.

An update valuation, or valuation advice is required after 12 months of the date of the original valuation if the land is not sold, or at any time there is considered to be a material movement in the value.

The valuation instructions must clearly state the following:

- The purpose of the valuation being "disposal",
- The primary basis of valuation being "market value highest and best use", unless an alternative basis is considered more appropriate in the circumstances. There may be multiple bases of valuations, if required.
- The agreed fee, update fee and completion date,
- That the valuation is marked confidential,
- That the valuation includes market commentary, details of sales evidence and adjustments, valuation rationale and methodology, a valuation range (for negotiations) and comments on marketability, most appropriate method of disposal and opportunities to add value.

In addition, the valuer must make a statement that there is no actual or perceived conflict of interest in undertaking the valuation.

5. <u>Method of Disposal</u>

An open <u>competitive process</u> of disposal is preferred choosing one of the following methods:

- Expression of interest often used for unusual properties difficult to determine a market value, or where Council seeks to achieve "best value" triple bottom line (TBL) benefits.
- Tender least common and used predominantly in high value, limited market situations.
- Auction the most open and public method, favoured by government, but reliant on high levels of competition. Often achieves a quick sale. Can fail in a poor market.
- Private Treaty most common, where an asking price is set and negotiated with individuals, usually through a real estate agent (who can be an independent third party to the negotiation process).

Page 3 of 5

The General Manager or Deputy General ManagerDirector Corporate Support Division may approve a noncompetitive process of disposal such as direct negotiations, subject to clearly documented reasons and the employment of risk mitigation measures.

Risk mitigation measures for direct negotiations may include:

- Obtaining two valuations where the land may be valued at more than \$50,000.
- Pre-establishing a range for negotiation, having regard to the two valuations
- Managing conflicts of interest with declarations of no personal or financial associations
- Establishing a Negotiation Protocol, describing the manner in which meetings, negotiations, decisions and progress reporting is to be managed.

6. Contract for the Sale of Land

Contracts for the Sale of Land will usually contain standard conditions of sale. Any unusual or special conditions of sale may require the delegated approval of Council or the General Manager as set out in 3 above. Any special conditions that materially alter the sale generally, purchase price or settlement period should require approval of Council.

Council's solicitor is responsible to ensure Contracts for the Sale of Land satisfy statutory disclosure and warranty obligations (*Conveyancing (Sale of Land) Regulation 2005*).

7. Disposal below Market Value

Land may be disposed of to achieve strategic outcomes. In such situations, "best value" may comprise financial, environmental or social elements, with the price falling below the "market value" range.

The report seeking resolution of Council should clearly state the reasons for such sale and quantify the amount below market value attributable to each element. The obligation to obtain a market valuation exists in accordance with the above, in order to provide a measure of the non-financial elements of the sale.

8. Sale to Adjoining Owners

In circumstances where land is not able to be sold in isolation on the open market (such as small parcels, undersized lots, former road widenings, closed laneways, etc) and the only potential purchasers are adjoining owners; the land must first be offered in equal proportions to each adjoining owner or appropriated according to adjoining land boundary length or frontage, on similar sale terms and conditions.

Where an adjoining owner does not wish to purchase their proportion of the land, the land will be similarly offered to the remaining adjoining owners.

The recommended method of determining the sale price is the "before and after" method as related to the purchaser's land. For small portions of land, the "piecemeal" (\$ rate per square metre) method may be more appropriate.

In most circumstances A an essential condition of sale is that the purchaser is required to consolidate the subject land with their existing holding at no cost to Council.

Page 4 of 5

Where the purchase price is deemed by Council to be a "nominal consideration", Council may impose a condition to recover all costs associated with the sale from the purchaser.

9. Sale of Roads - Roads Act 1993

No road can be sold until it is formally closed in accordance with the provisions of the Roads Act 1993.

For purchaser initiated closures and sales, the costs associated with the road closure will be borne up front by the prospective purchaser.

When Council initiates the road closure (in order to realise the value of surplus land), the costs will be borne by Council as development costs.

The agreed purchase price and estimated costs will be reported to Council seeking resolution agreeing to make application to close the road and dispose of the land upon closure in accordance with the terms of sale.

In accordance with Section 43 of the Roads Act 1993, funds from the sale of roads are required to be set aside for acquiring land for public roads or for carrying out work on public roads.

10. Confidentiality

In the majority of disposals of land, the information contained in reports to council to sell land may confer an advantage upon a person with whom Council is, or proposes, to be conducting business. On balance, it would be contrary to the public interest for Council to deal with such matter in an open session because release of the information could prejudice Council's ability to obtain the maximum return on the property.

Therefore, it is acknowledged that reports to Council on the disposal of land will be generally deemed confidential under Section 10A(2)(c) of the Local Government Act 1993. This confidentiality may be lifted upon settlement, if considered to be in the public interest.

11. Departure from change this Policy

Any provision of this policy may be varied to meet the needs of a particular matter, by resolution of Council. The reasons for change will be clearly articulated within the report submitted for consideration by Council in adopting such resolution and will only apply to such matters.

NOTE: This policy has been drafted with reference to the following:

- ICAC position paper "Corruption Risks in NSW Development Approval Processes" Chapter 7, Council land disposal (September 2007);
- 2. ICAC "Guidelines for Managing Risks in Direct Negotiations" (May 2006);
- 3. Various public sector policies on land disposal

Page 5 of 5



POLICY REGISTER

POLICY TITLE:	LAND - LEASE/LICENCE BY COUNCIL
Folder Number:	F2007/00307
POLICY OWNER / DIVISION:	Corporate Support Division
POLICY OWNER / BRANCH:	Land and Property Services
FUNCTION	Council Property & Land
RELEVANT LEGISLATION: POLICY ADOPTION/AMENDMENT DATE:	8 August 2018 11 May 2022 REPORT NUMBER:
	CS 33/18<u>4/22</u>
REVIEW YEAR:	2021<u>2024</u>
AMENDMENT HISTORY:	9 May 2007 (Report CC36/07) 8 April 2009 (Report CC12/09) 20 April 2011 (Report CC10/11) 18 April 2012 (Report WK4/12) 17 April 2013 (Report GM2/13) 8 April 2015 (Report CS6/15) 9 March 2016 (Report EH1/16) 8 August 2018 (Report CS33/18)

RELATED POLICIES:

POLICY PURPOSE / OBJECTIVES:

- 1. To acknowledge that Council is the custodian and trustee of public assets and is required to effectively account for and manage the assets for which it is responsible.
- 2. To set out the principles, framework, responsibilities and processes for Council officers to account for and manage the leasing and licensing of Council land and building assets.
- 3. To identify, manage and mitigate the risks associated with the leasing and licensing of land and buildings.
- 4. To ensure impartiality, transparency, accountability and the delivery of best value in the leasing and licensing of land ("fundamental principles").

Page 1 of 3 Date printed: 8 August 2018 To provide appropriate levels of discretion and flexibility in achieving desired outcomes recognising the highly complex nature of property leasing, the wide variety of circumstances and methods of lease or licence available.

Fundamental Principles

All decisions and actions in relation to the leasing or licensing of land and buildings will have due regard to the following fundamental principles:

- 1. **Best Value for Money** Achieving "best value" may include financial, social and environmental benefits.
- Transparency processes are open to scrutiny, provide full information and the reasons behind decisions.
- Accountability demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails.
- 4. Impartiality address perceived or actual conflicts of interests, ensuring fairness and equity.

POLICY STATEMENT:

- 1. All users leasing or licensing Council land will pay a rental negotiated with due regard to Council's opinion of market rental, ultimately seeking to achieve best value for Council.
- 2. Council's opinion of market rent will be based upon valuation advice undertaken by a suitably qualified Valuer, experienced in the type of valuation required. The rent review mechanisms may include, but not be limited to CPI, Fixed increases and market reviews on various periodic bases, depending on the particular circumstances negotiated and the applicable legislative provisions and restrictions imposed by various forms of legislation including the Residential Tenancies Act 2010, Retail Leases Act 1994, Local Government Act 1993 and the Roads Act 1993. In situations where the circumstances suggest that the expense of a formal market valuation report is not considered necessary or the cost does not deliver an appropriate benefit, a suitably based market appraisal by a real estate agent or Council's ManagerLand and Property Services Property Asset Manager may be approved by the Executive ManagerDirector, Corporate Support as the basis for new lease or rent review negotiations.
- Rent free periods for early occupation, fitout or as an industry accepted lease incentive may be applied in appropriate circumstances.
- 4. The maximum length of the lease/licence of Council land, including option periods, will generally be five (5) years. Consideration may be given to granting an additional period of tenure where special circumstances warrant this occurring, or as provided under relevant legislation.
- 5. Rentals may be negotiated on a gross market basis where outgoings such as Council Rates, Water Rates (excluding usage), Land Tax, Insurance, repairs and maintenance are included in the rent (eg residential rentals), or on a net basis where outgoings are paid by the tenant in addition to the rent

Page 2 of 4 Date printed: 8 August 2018 (eg industrial rentals), or on a semi net basis where depending on individual circumstances increases in outgoings above a base year are paid by the tenant.

- 6. Leases should generally be structured in accordance with accepted prevailing industry practice, however, may include special provisions such as "ratchet" clauses (where a rent review can not lead to a rent reduction), demolition/redevelopment clauses and other types of clauses appropriate to the specific circumstances.
- 7. All elements of lease negotiations should be conducted in a manner that protects all parties to the negotiations from risk associated with actual or perceived corruption with complete and accurate documentation recorded, including clear reasoning behind decisions made.

DELEGATION OF AUTHORITY:

- 1. The General Manager is delegated authority to grant leases/licences of Council owned properties as follows:-
 - 1.1. Residential cottages where:-
 - (a) the rent to be charged is no less than 80% of the estimated market rental having regard to the accommodation, condition of the premises and obligations of both the lessor and lessee;
 - (b) the term of the agreement is not more than twelve (12) months;
 - the proposed tenants are interviewed and references checked by a Council Officer or a Real Estate agent representing Council;
 - (d) appropriate Branches of Council are consulted before entering into negotiations for a new tenant;
 - (e) the agreement is in accordance with Council's policies regarding the leasing of Council properties.
 - 1.2. Commercial, Retail and other Use properties where:-
 - the term of the agreement is no more than five (5) years, including any option periods;
 - (b) the permitted use of the premises has development approval and operational approval, if required;
 - (c) appropriate Council Branches are consulted before entering into negotiations for any new agreement;
 - (d) all appropriate reference checks have been carried out to ensure that the proposed lessee/licensee will be able to comply with the terms of the agreement;

Page 3 of 4 Date printed: 8 August 2018

- the agreement is in accordance with Council's policies regarding the leasing of Council properties and relevant legislation;
- (f) the rental cashflow over the term of the lease has been adequately demonstrated to provide best value for Council.
- Lease/licence proposals that do not fall into the above categories are to be the subject of a report to Council.

Page 4 of 4 Date printed: 8 August 2018

ATTACHMENT/S

REPORT NO. CS26/22

ITEM 2

1. HSC INVESTMENT SUMMARY REPORT MARCH 2022 2. HSC BORROWINGS SCHEDULE MARCH 2022

Investment Summary Report March 2022







ATTACHMENT 1 - ITEM 2

rnsby Shire Council	Investment Holdings Report
Horns	Invect

	March 2022
	Report -
	Holdings
•	Investment

Cash Accounts

HORNSER

Current Value (\$)

Credit Rating AA-A+ A+ BBB+ BBB

Institution

Current Yield

Face Value (\$) 0.4500%

14,771,341.12 10,069,771.74 10,480,214.33 10,020,283.30

0.6000%

0.2000%

0.5500%

Westpac Group Macquarie Bank ME Bank AMP Bank NSW T-Corp (Cash)

14,771,341.12 10,069,771.74 10,480,214.33 10,020,283.30 27,858.66 **45,369,469.15** Current Value (\$)

Fund Name

Credit Rating

Institution

Current Yield

Face Value (\$) 22,062,185.54

Managed Funds

-15.3291%

22,062,185.54 -15.3291%

0.4469%

27,858.66 45,369,469.15

-0.8033%

Medium Term Growth

TCm

NSW T-Corp (MT)

22,062,185.54

140,077.67

Current Value (\$)

Book Value (\$) 140,000.00

Credit Rating

> Institution Westpac Group

Rate

Face Value (\$) 140,000.00

Term Days

Maturity Date

erm Deposits Purchase Date 212 126 182 730 730 241 241 244 244 244 228 350 356

181

17-May-22 19-May-22 15-Jun-22 15-Jun-22 8-Jul-22 29-Jul-22 29-Jul-22 2-Aug-22

17-Nov-21 19-Oct-21

0.1500%

-AA-

22,062,185.54

ITEM 2	1 - IT	Z	ATTACHMENT		
5,012,139.73	5,000,000.00	AA-	Commonwealth Bank of Australia	0.4200%	5,000,000.00
5,012,197.26	5,000,000.00	AA-	Commonwealth Bank of Australia	0.4200%	5,000,000.00
3,049,068.49	3,000,000.00	BBB+	Bank of Queensland	1.0000%	3,000,000.00
5,010,110.96	5,000,000.00	BBB+	Bank of Queensland	0.6100%	5,000,000.00
5,010,194.52	5,000,000.00	BBB+	Bank of Queensland	0.6100%	5,000,000.00
2,521,945.21	2,500,000.00	BBB	AMP Bank	1.2000%	2,500,000.00
91,353.15	91,313.00	-AA-	Westpac Group	0.1500%	91,313.00
3,001,760.55	3,000,000.00	A	ING Bank (Australia)	0.4200%	3,000,000.00
50,044.93	50,000.00	-AA-	Westpac Group	0.2000%	50,000.00

10-Aug-22 17-Aug-22 24-Aug-22

8-Jul-20 30-Nov-21 1-Dec-21 12-Aug-20 1-Sep-21 2-Sep-21

9-Feb-22 15-Dec-21

Attachment to Report No. CS26/22 Page 3

Hornsby	Shire	Council
TIOTISDY	Onne	Council

	Attach	nment to	Rep	ort	No	. CS	526/	'22 Pa	ge 4
9,008,136.99	3,029,506.85 . 17,911,154.12	Current Value (\$)	15,012,850.97	15,012,868.11	15,010,171.23	15,008,541.62	60,044,431.93		

15,000,000.00 15,000,000.00

> -AA--AA-

-AA-

Westpac Group BBSW+0.98%

1.0783% 1.1183%1.1250% 1.1547% 1.1191%

15,000,000.00 15,000,000.00 15,000,000.00 15,000,000.00 60,000,000.00

1826 1826 1827 1826

3-Sep-23 4-Sep-23 11-Sep-23 12-Sep-23

3-Sep-18

4-Sep-18 10-Sep-18 12-Sep-18

Westpac Group BBSW+0.98% ANZ Banking Group BBSW+1.00%

ANZ Banking Group BBSW+1.00%

15,000,000.00 15,000,000.00 60,000,000.00

-AA

HORNSBY	

Term Deposits								
Purchase Date	Maturity Date	Term Days	Face Value (\$)	Rate	Institution	Credit Rating	Book Value (\$)	Current Value (\$)
9-Sep-20	7-Sep-22	728	4,000,000.00	0.9500%	Bank of Queensland	BBB+	4,000,000.00	4,021,238.36
26-Sep-19	21-Sep-22	1091	5,000,000.00	1.8000%	Bank of Queensland	BBB+	5,000,000.00	5,226,356.16
15-Nov-21	15-Nov-22	365	2,500,000.00	1.0000%	AMP Bank	BBB	2,500,000.00	2,509,383.56
15-Dec-21	14-Dec-22	364	5,000,000.00	0.7500%	National Australia Bank	AA-	5,000,000.00	5,010,993.15
23-Feb-22	22-Feb-23	364	5,000,000.00	0.8500%	Bendigo and Adelaide Bank	BBB+	5,000,000.00	5,004,308.22
14-Sep-20	15-Mar-23	912	5,000,000.00	1.0000%	Bank of Queensland	BBB+	5,000,000.00	5,027,260.27
24-Sep-20	29-Mar-23	916	5,000,000.00	0.9500%	Bank of Queensland	BBB+	5,000,000.00	5,024,595.89
1-0ct-20	4-0ct-23	1098	5,000,000.00	0.9500%	Bank of Queensland	BBB+	5,000,000.00	5,023,684.93
17-Nov-21	15-Nov-23	728	10,000,000.00	1.2500%	Westpac Group	AA-	10,000,000.00	10,046,232.88
23-Nov-21	23-Nov-23	730	5,000,000.00	1.2800%	Westpac Group	-AA-	5,000,000.00	5,022,619.18
2-Dec-21	5-Dec-23	733	10,000,000.00	1.2100%	Westpac Group	AA-	10,000,000.00	10,039,780.82
23-Feb-22	21-Feb-24	728	5,000,000.00	1.8000%	National Australia Bank	AA-	5,000,000.00	5,009,123.29
19-Mar-19	6-Mar-24	1814	10,000,000.00	3.0000%	Rabobank Australia	A+	10,000,000.00	10,009,041.10
19-Mar-19	13-Mar-24	1821	9,000,000.00	3.0000%	Rabobank Australia	A+	9,000,000.00	9,008,136.99
7-Apr-21	7-Apr-25	1461	3,000,000.00	1.0000%	National Australia Bank	-AA-	3,000,000.00	3,029,506.85
			117,281,313.00	1.3251%			117,281,313.00	117,911,154.12
Floating Rate Term Deposits	Term Depos	sits						
Purchase Date	Maturity Date	Term	Face Value (\$)	Current Rate	Security Name	Credit Rating	Book Value (\$)	Current Value (\$)

ITEM 2 ATTACHMENT 1 -



Investment Holdings Report - March 2022

Hornsby Shire Council

	E7 070 700 00			1000000	E7 6E0 000 00			
1,481,138.84	1,500,000.00	BBB	NPBS Snr FRN (Feb27) BBSW+1.00%	1.0701%	1,500,000.00	1829	10-Feb-27	7-Feb-22
5,868,355.07	6,000,000.00	AA-	CBA Green Snr FRN (Dec26) BBSW+0.41%	.6050%	6,000,000.00	1919	23-Dec-26	21-Sep-21
4,160,688.46	4,250,000.00	AA-	SUN Snr FRN (Sep26) BBSW+0.48%	.6345%	4,250,000.00	1832	15-Sep-26	9-Sep-21
4,618,870.27	4,700,000.00	AA-	NAB Snr FRN (Aug26) BBSW+0.41%	.4850%	4,700,000.00	1832	24-Aug-26	18-Aug-21
2,062,510.40	2,100,000.00	AA-	SUN Snr FRN (Feb26) BBSW+0.45%	.5250%	2,100,000.00	1826	24-Feb-26	24-Feb-21
9,815,786.80	10,000,000.00	A+	MAC Snr FRN (Dec25) BBSW+0.48%	.6258%	10,000,000.00	1826	9-Dec-25	9-Dec-20
3,333,010.68	3,400,000.00	BBB+	BEN Snr FRN (Dec25) BBSW+0.52%	.6050%	3,400,000.00	1826	2-Dec-25	2-Dec-20
3,999,033.48	4,000,000.00	BBB+	BEN Snr FRN (Mar25) BBSW+0.98%	1.1397%	4,000,000.00	1102	17-Mar-25	11-Mar-22
4,216,916.54	4,166,778.00	BBB	NPBS Snr FRN (Feb25) BBSW+1.12%	1.1913%	4,200,000.00	1827	4-Feb-25	4-Feb-20
1,512,562.81	1,490,610.00	BBB	GSB Snr FRN (Oct24) BBSW+1.12%	1.1850%	1,500,000.00	1827	24-Oct-24	24-Oct-19
7,065,098.01	7,100,450.00	AA-	WBC Snr FRN (Nov23) BBSW+0.95%	1.0284%	7,000,000.00	1826	16-Nov-23	16-Nov-18
9,068,449.32	9,120,960.00	-AA-	NAB Snr FRN (Sep23) BBSW+0.93%	1.1450%	9,000,000,6	1826	26-Sep-23	26-Sep-18
Current Value (\$)	Book Value (\$)	Credit Rating	Security Name	Current Rate	Face Value (\$)	Term	Maturity Date	Purchase Date
							Notes	Floating Rate Notes
HORNSBY SHIRE COUNCIL							n	

Current Value (\$) 302,589,661.42

Face Value (\$) 302,362,967.69

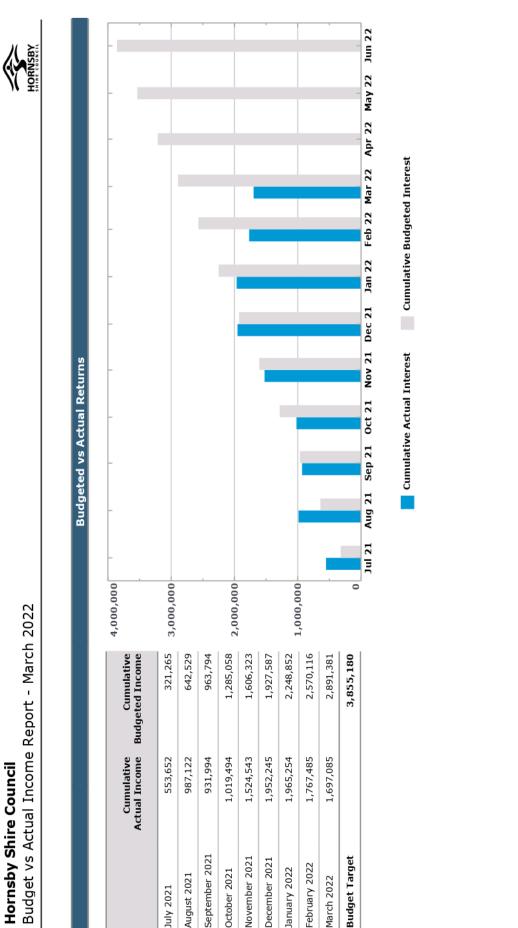
Fotal Investments



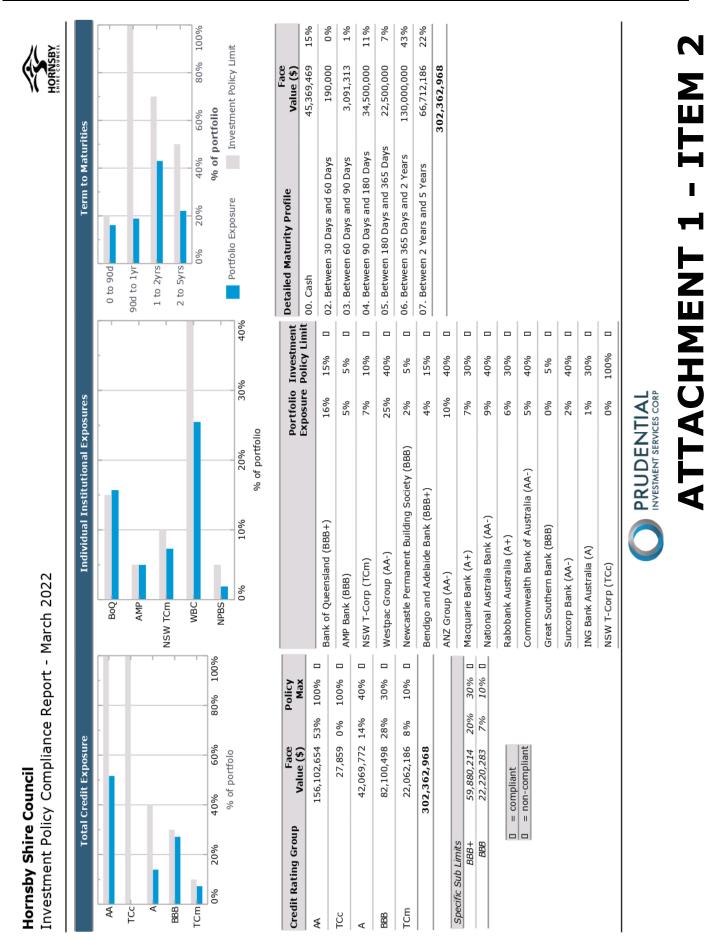
ATTACHMENT 1 - ITEM 2



General Meeting 11 May 2022



Hornsby Shire Council Environmental Commitments Report - March 20	ıts Report - Mar	ch 2022		KARSINITIA
Current	Current Breakdown		Histor	Historical Portfolio Exposure to Non Fossil Fuel Lending ADIs
ADI Lending Status *	Current Month (\$)	Previous Month (\$)	320M	
Fossil Fuel Lending ADIs				
AMP Bank	15,020,283	15,015,605	M04C	
ANZ Group	30,000,000	30,000,000		
Bank of Queensland	47,480,214	47,478,434	- •	
ING Bank Australia	3,000,000	3,000,000		
Macquarie Bank	20,069,772	20,065,426	_ 160M -	
National Australia Bank	26,700,000	26,700,000		40%
Westpac Group	52,052,654	59,046,723		
	194,322,923 64%	0 201,306,188 66%	BOM	
Non Fossil Fuel Lending ADIs				20%
Bendigo and Adelaide Bank	12,400,000	8,400,000		
Great Southern Bank	1,500,000	1,500,000	W	
Newcastle Permanent Building Society	5,700,000	5,700,000	Apr 21 May 21	Jun 21 Jul 21 Aug 21 Sep 21 Oct 21 Nov 21 Dec 21 Jan 22 Feb 22 Mar 22
Rabobank Australia	19,000,000	19,000,000		
Suncorp Bank	6,350,000	6,350,000		Portfolio Size (LHS)
	44,950,000 15%	0 40,950,000 13%		06. Truveted in Non-Eereil Eucl Landing ADE and Cocielly December Truvetments (DUC)
Other				Vo linvesteu in Non-Fussi Fuel Lenuing Auts and Jouraily Response linvestments (RFN)
NSW T-Corp (Cash)	27,859	27,878		% Invested in Non-Fossil Fuel Lending ADIs (RHS)
NSW T-Corp (MT)	22,062,186	22,376,191		% Invested in Socially Responsible Investments (RHS)
	22,090,044 7%	22,404,069 7%		
Socially Responsible Investment				
CBA (Green)	16,000,000	16,000,000		
Westpac Group (Green TD)	25,000,000	25,000,000		
	41,000,000 14%	0 41,000,000 13%		
	302,362,968	305,660,257		
	* source: h	* source: http://www.marketforces.org.au	-	
	Percentages may not a	dd up to 100% due to rounding	5	
		0	PRUDENTIAL INVESTMENT SERVICES CORP	TIAL
				ALLACHMENI I - LIEM Z



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1. LOANS			\$'000	\$'000	\$1000	\$:000	\$-000	%
				01/07/2021		2021/22 YTD		
			Amount	Opening		Repayments	Closing	Fixed Interest
Lender	Date Drawn	Maturity Date	Borrowed	Balance	New Loan	Principal	Balance	Rate %
Westpac(51)	26-Jun-13	25-Jun-23	2,000	499		180	318	5.89
*TOTAL			2,000	499		180	318	

2. OPERATING LEASES			\$'000	\$-000	000,\$	\$,000	\$,000
Lessor	Date Executed	Expiry date	Total Lease Payments	01/07/2021 Opening Balance	New Leases	2021/2022 Repayments YTD	Closing Balance
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (105)	22-Sep-17	15-Aug-21	444	28		28	0
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (107)	22-Sep-17	15-Aug-22	56	14		8	9
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (108)	15-Aug-18	15-Aug-22	242	71		43	28
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (109)	15-Aug-18	15-May-23	85	34		13	21
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (110)	15-Nov-18	15-Aug-22	26	8		5	3
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (111)	15-Nov-18	15-Aug-23	632	285		95	190
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (112)	15-Feb-19	15-Nov-21	55	6		6	0
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (113)	15-Feb-19	15-Aug-22	11	4		2	-
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (114)	15-May-19	15-Aug-23	15	7		2	5
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (115)	23-Aug-19	15-May-24	95	71		18	53
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (116)	15-Feb-20	15-May-23	11	7		3	5
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (101)ext	15-Feb-21	15-May-22	58	36	month to month lease extension	29	7
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (103)ext	15-Feb-21	15-May-22	20	14	month to month lease extension	10	3
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (105)ext	15-Feb-22	15-May-22	56	56	month to month lease extension	28	28
Vestone Capital Pty Ltd - previously known as Macquarie Equipment Finance (106)ext	15-Feb-21	15-Feb-22	6	9	month to month lease extension	9	0
Canon Finance Australia Pty Ltd	15-Nov-17	01-Nov-22	109	31		18	13
*McDonalds - Central Ave Lease	12-Apr-21	11-0ct-22	751	601		371	230
TOTAL			2,674	1,281	0	688	593
*MeDuralds lasse has have actended to 11 October 22 and incurs an increase of 3.5% for the nariod of 12 Antil 2022 to 11 October 2022 (£42 £83.75 including GST ner month)	erind of 12 Anril 2	2022 to 11 October 202	2 (\$42 693 75 in	cluding GST ne	r month)		

3. DEBT SERVICE RATIO	Ratio %
Year ended Jun 21	0.31
Year ended Jun 20	0.61
Year ended Jun 19	0.78
Year ended Jun 18	1.08
Year ended Jun 17	1.73

Debt Service Cost Revenue from Continuing Operations excluding Capital Items & Specific Purpose Grants/Contributions

Debt Service Ratio

ATTACHMENT/S

REPORT NO. CS29/22

ITEM 3

1. 31 MARCH 2022 QUARTERLY BUDGET REVIEW STATEMENT

Quarterly Budget Review Statement

for the period 01/01/22 to 31/03/22

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1.	Responsible Accounting Officer's Statement	1
2.	Income & Expenses Budget Review Statement's	2 & 2a
3.	Capital Budget Review Statement	3 & 3a
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6.	Contracts & Other Expenses Budget Review Statement	6
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Quarterly Budget Review Statement for the period 01/01/22 to 31/03/22

Report by Responsible Accounting Officer

The following statement is made in accordance with Clause 203(2) of the Local Government (General) Regulations 2005:

It is my opinion that the Quarterly Budget Review Statement for HORNSBY SHIRE COUNCIL for the quarter ended 31/03/22 indicates that Council's financial position at 30/6/22 is Satisfactory at year end, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

Signed:

Duncan Chell

Responsible Accounting Officer

date:

26-04-22

ATTACHMENT 1 - ITEM

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COUNCIL
SHIRE
HORNSBY

Quarterly Budget Review Statement	for the period 01/01/22 to 31/03/22

Budget review for the quarter ended 31 March 2022 Income & Expenses - All Principal Activities											
	Original		Appro	Approved Changes			Revised	Bud Change No	Notes Proje	Projected	Actual
(s,000\$)	Budget 2021/22	Total QBRS Contra Changes	Sep QBRS	Dec QBRS	Mar QBRS	Jun QBRS	Budget 2021/22	Request for Mar Qtr	Year Re	Year End Result	YTD figures
Income											
Rates & Annual Charges	-101,523,124	0	17,617	0	0	0	-101,505,507	0	-101,	101,505,507	-102, 195, 698
User Charges & Fees	-14,304,331	0	-17,143	0	0	0	-14,321,474	-13,977	-14,	-14,335,451	-8,678,408
Interest	-3,992,059	0	0	0	0	0	-3,992,059	0	Ϋ́	-3,992,059	-1,773,304
Other Revenues	-6,562,574	0	68,700	0	0	0	-6,493,874	13,977	9	-6,479,897	4,323,380
Operating Grants	-9,612,314	0	1,802,880	-10,000	0	0	-7,819,434	-3,905,768	-11,	-11,725,202	-7,354,910
Operating Contributions & Donations	-958, 796	0	-210,000	0	0	0	-1,168,796	0	4	-1,168,796	-3,368,231
Total Income from Continuing Operations	-136,953,198	0	1,662,054	-10,000	0	0	-135,301,144	-3,905,768	-139,2	-139,206,912	-127,693,931
Expenses											
Employee Expense	51,405,167	0	218,799	-719,262	0	0	50,904,704	-948,062	49,	49,956,642	35,899,430
Borrowing Expense	24,070	0	0	0	0	0	24,070	0		24,070	20,009
Materials & Contracts	46,444,545	-710,783	1,792,651	1,137,820	0	0	48,664,233	-110,000	48,	48,554,233	28,202,745
Depreciation-&-Amortisation	20,442,227	0	0	0	0	0	20,442,227	0	20,	20,442,227	14,695,016
Internal Expenses	-71,569	-34,869	125,370	0	0	0	18,932	0		18,932	-170,153
Legal Expenses	1,433,301	0	50,000	0	0	0	1,483,301	-390,000	-	1,093,301	480,284
Consultants	3,298,818	743,152	0	0	0	0	4,041,970	-100,000	ĉ	3,941,970	5,658,704
Other Expenses	14,039,793	2,500	310,100	0	0	0	14,352,393	0	14,	14,352,393	9,056,384
Total Expenses from Continuing Operations	137,016,352	0	2,496,920	418,558	0	0	139,931,830	-1,548,062	138,3	138,383,768	93,842,419
Net Operating Result from Continuing Operations	63,154	0	4,158,974	408,558	0	0	4,630,687	-5,453,830	œ	-823,143	-33,851,512
Net Operating Result before Capital Items	63,154	0	4,158,974	408,558	•	0	4,630,687	-5,453,830	φ	-823,143	-33,851,512
1											

Quarterly Budget Review Statement

for the period 01/01/22 to 31/03/22

Income & Expenses Budget Review Statement Recommended changes to revised budget

Budget Variations being recommended include the following material items:

Notes	Details
	\$

ThPlease refer to the body of Report CS29/22 for details.

HORNSBY SHIRE COUNCIL								Quart	erly Bu for the	Quarterly Budget Review Statement for the period 01/01/22 to 31/03/22	Statement 2 to 31/03/22
Budget review for the quarter ended 31 March 2022 Capital Budget - All Principal Activities											
-	Original		Appro	Approved Changes			Revised	Bud Change	Notes	Projected	Actual
(\$000\$)	Budget	Total QBRS Contra Changes	Sep QBRS	Dec QBRS	Mar QBRS	Jun QBRS	Budget 2021/22	Request for Mar Qtr		Year End Result	YTD figures
Capital Expenditure WIP Expenditure & Asset Purchases	362.171	980.351	7.050.822	980.351	0	0	64 393 344	5 439 781		69 833 125	30.065.019
Total Capital Expenditure	56,362,171	980,351	7,050,822	980,351	•	•	64,393,344	5,439,781		69,833,125	30,065,019
Capital Funding											
Capital Grants	-300,000	-2,170,000	-2,607,451	-2,170,000	0	0	-5,077,451	-1,323,415		-6,400,866	-15,464,656
Capital Contributions & Donations	4,982,264	0	0	0	0	0	4,982,264	0		-4,982,264	4,942,458
Asset Sales	-1,000,000	0	0	0	0	0	-1,000,000	0		-1,000,000	-894,198
	-6,282,264	-2,170,000	-2,607,451	-2,170,000	•	•	-11,059,715	-1,323,415		-12,383,130	-21,301,312
Other Funding											
External Restricted Assets	-29,544,713	0	-6,665,799	1,381,091	0	0	-34,829,421	3,355,768		-31,473,653	15,261,336
Internal Restricted Assets	-2,751,218	0	-1,243,282	-600,000	0	0	-4,594,501	-1,318,304		-5,912,805	662,847
External Loan Principal Repayments	241,970	0	0	0	0	0	241,970	0		241,970	177,520
Employee Leave Payments	956,069	0	0	0	0	0	956,069	0		956,069	1,150,103
Writeback Depreciation	-20,442,227	0	0	0	0	0	-20,442,227	0		-20,442,227	-14,695,016
Total Funding	-57,822,384	-2,170,000	-2,170,000 -10,516,533	-1,388,909	0	0	-69,727,826	714,049		-69,013,777	-18,744,522
Net Capital Funding	-1,460,213	-1,189,649	-3,465,711	-408,558	0	0	-5,334,482	6,153,830		819,348	11,320,497
Net Operating Result before Capital Items	63,154	0	4,158,974	408,558	0	•	4,630,687	-5,453,830		-823,143	-33,851,512
Net Operating & Capital Result after Funding	-1,397,058	-1,189,649	693,264	0	0	0	-703,795	700,000		-3,795	-22,531,015

Hornsby Shire Council

General Meeting 11 May 2022

Quarterly Budget Review Statement for the period 01/01/22 to 31/03/22 Details

 \mathbf{M} Σ E ATTACHMENT

HORNSBY SHIRE COUNCIL

Capital Budget Review Statement Recommended changes to revised budget

Budget Variations being recommended include the following material items:

Notes \$

Please refer to the body of Report CS29/22 for details.

Quarterly Budget Review Statement for the period 01/01/22 to 31/03/22

Hornsby Shire Council

Original Revised Budget	Budget Projected Year End 2021/22 2021/22	296,599,000 296,599,000	195,539,000	82,223,000 277 762 000 277 762 000		296,599,000	
Budget review for the quarter ended 31 March 2022 Cash & Investments - All Principal Activities	(\$000,s)	Total Cash & Investments	Externally Restricted ⁽¹⁾	Internally Restricted ⁽²⁾ Total Restrictions	Unrestricted (ie. available after the above Restrictions)	Total Cash & Investments	 Funds that must be spent for a specific purpose Funds that Council has earmarked for a specific purpose

202,757,110 83,041,450 285,798,560

16,791,101 **302,589,661**

Actual YTD figures 302,589,661

HORNSBY SHIRE COUNCIL Quarterly Budget Review Statement

for the period 01/01/22 to 31/03/22

Cash & Investments Budget Review Statement

Investments

Investments have been invested in accordance with Council's Investment Policy.

<u>Cash</u>

The value of Cash at Bank which has been included in the Cash & Investment Statement totals \$7,568,129

This Cash at Bank amount has been reconciled to Council's physical Bank Statements. The date of completion of this bank reconciliation is 31/03/22

Reconciliation Status

The YTD Cash & Investment figure reconciles to the actu	al balances held as follows:	\$ 000's
GL Investments - Trial Balance GL Cash at Bank - Trial Balance GL Cash on Hand - Trial Balance	_	295,475 7,115 <u>2</u> 302,590
Reconciled Cash at Bank & Investments		562,550
Investments Investment Total	_	295,475 295,475
Cash at Bank (as per bank statements) less: Ledger transactions not yet in the bank add: Bank transactions to be posted to the ledger Cash at Bank Total	(Timing Difference) (Timing Difference)	7,568 91 -544 7,115
Cash on Hand Total	_	2



Quarterly Budget Review Statement for the period 01/01/22 to 31/03/22

Key Performance Indicators Budget Review Statement (subject to external audit)

Budget review for the quarter ended 31 March 2022

	Draft	Draft	Actuals	
(\$000,\$)	\$.000	Indicator	Indicator	
	21/22	21/22	20/21 19/20	
The Council monitors the following Key Performance Indicators	2.			

Indicators:	
Performance	
Key	
following	
the	
monitors	
The Council	

Unrestricted Current Ratio				- 00.6
Current Assets less External Restrictions	105,170	0 11	0 1E 7 00	7.00 -
Current Liabilities less Specific Purpose Liabilities	16,398	0.41	20.1 04.0	5.00 -
				3.00
This indicator assesses the adequacy of working capital and its ability to satisfy obligations in the short term for the	I and its ability to satisfy	/ obligations in th	ne short term for the	iter
unrestricted activition of Council				- 00"1

This indicator assesses the adequacy of working capital and its ability to satisfy obligations in the short term for the unrestricted activities of Council.

2018/19 2019/20 2020/21 2021/22 (P)

Unrestricted Current Ratio

59.53

62.00 52.00 38.16

29.35

25.27

Katio (3)

6.41

6.45

8.00

Debt Service Cover Ratio					
Operating Result before capital excl. interest and					
depreciation/impaiment/amortisation	15,836	59.53	38.16	29.35	
Principal repayments and borrowing interest costs	266				

This ratio measures the availability of operating cash to service debt including interest, principal and lease payments.

2020/21 2021/22 (P)

2019/20

2018/19

22.00

Debt Service Cover Ratio

Rates, Annual Charges, Interest & Extra Charges				
Outstanding Percentage				
Rates, Annual and Extra Charges Outstanding	2,430	CE C	PE C	CEC PEC
Rates, Annual and Extra Charges Collectible	104,883	4	5	

This indicator is to assess the impact of uncollected rates and annual charges on Councit's liquidity and the adequacy of recovery efforts.

Rates, Annual Charges, Interest & Extra Charges Outstanding Percentage

2020/21 2021/22 (P)

2019/20

2018/19

2.32

2.34

2.32

1.81

5.0 4.0 3.0 2.0 1.0

% oiteA

Quarterly Budget Review Statement for the period 01/01/22 to 31/03/22

Key Performance Indicators Budget Review Statement (subject to external audit)

Budget review for the quarter ended 31 March 2022

(\$000.s)	June \$'000 21/22	June Indicator 21/22	Prior Periods Indicator 20/21 19/20	
Own Source Operating Revenue Ratio				0.06
Total continuing operating revenue (less All Grants & Contributions)	126,943	86.99	80.89 86.59	
Fotal continuing operating revenue	145,923			olis
This ratio measures Council's fiscal flexibility. It is the degree of reliance on external funding sources such as	gree of reliance on ex	ternal funding so	urces such as	50.0 ±018/19
operating grants & contributions.				



Source Operating Revenue Ratio

2021/22 (P) -3.42

2018/19 2019/20 2020/21

3.82

5.32

44

Operating Performance Ratio

2020/21 2021/22 (P)

2019/20

19

87.0

36.6

80.9

1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1	0.9		0.0	-2.0 - 2	
		6 33	20.0		
		00 0	20.0		
		01.0	24.0-		
		- 4,631	135,301		
Onerating Performance Ratio	Total continuing operating revenue (excl. Capital	Grants & Contributions) - Operating Expenses	Total continuing operating revenue (excl. Capital	Grants & Contributions)	

This ratio measures Council's achievement of containing operating expenditure within operating revenue.



This liquidity ratio indicates the number of months Council can continue paying for its immediate expenses without



2021/22 (P)

22.70

ITEM 3

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Quarterly Budget Review Statement for the period 01/01/22 to 31/03/22 Consultancy & Legal Expenses Budget Review Statement

Budget review for the quarter ended 31 March 2022 Consultancy & Legal Expenses Overview		
Expense	YTD Expenditure (Actual Dollars)	Budgeted (Y/N)
Consultancies	5,658,704	Ν
Legal Fees	480,284	Y

Definition of a consultant:

A consultant is a person or organisation engaged under contract on a temporary basis to provide recommendations or high level specialist or professional advice to assist decision making by management. Generally it is the advisory nature of the work that differentiates a consultant from other contractors.

Comments

Consultancy expenses are greater than the budget because of works at Foxglove Oval. This expenditure is fully funded by Council's Domestic Waste Management Reserve.

ATTACHMENT/S

REPORT NO. CS33/22

ITEM 5

1. DRAFT 2022/23 LONG TERM FINANCIAL PLAN 2. ASSET MANAGEMENT STRATEGY 3. WORKFORCE MANAGEMENT PLAN

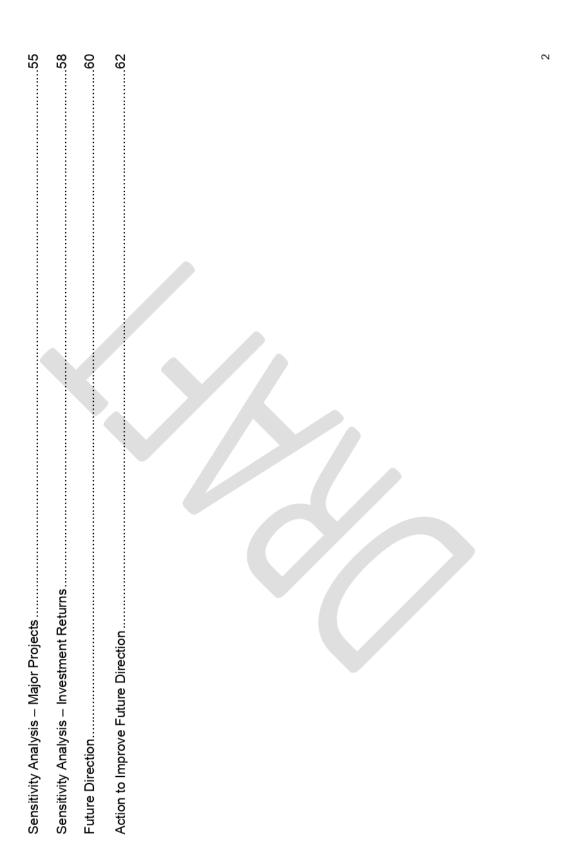
2022/23 to 2031/32

LONG TERM FINANCIAL PLAN



TABLE OF CONTENTS

Executive Summary
Revenue Assumptions
Results - Normal Continuance of Service
Additional Special Rate Variation (ASRV)
Results - Normal Continuance of Service & ASRV
Asset Management Planning
Results - Normal Continuance of Service & Asset Management Requirements
Results - Normal Continuance of Service, Asset Management Requirements & SRV
Strategic Initiatives
Financial Risks



identified in Council's recently revised Asset Management Plans and an increase in statutory employee superannuation to 12% that amounts to \$1.2 million in additional superannuation payments each year by 2026. Investment returns from Council's investment portfolio have also declined in line with a reduction in Since the last version of Council's Long Term Financial Plan (LTFP) was prepared Council's financial capacity has declined because of internal and external factors, notably a historically low rate peg of 0.7% set by the Independent pricing and Regulatory Tribunal (IPART) in 2022/23, an increase in the Emergency Services Levy payable to the NSW State Government of \$1 million per year, the need to provide an additional \$3.2 million per year to meet the requirements the interest base rate set by the Reserve Bank of Australia from 1.5% to 0.1%. Because of these factors forecast deficits are expected to occur sooner and are larger than those that were forecast in the last two years of the previous ten year Plan.

The deficits forecast increase in size over the life of the Plan because Council's income is expected to grow at a slower rate than expenditure due to increases in the wages price index and consumer price index over the planning period. The forecast deficits are also accelerated by the need to allocate additional funding to maintain Council's assets in a satisfactory condition, including allocating recurrent budgets for operational, maintenance and renewal expenditure for newly constructed major capital projects such as Hornsby Park that are due to be completed during the period of the Plan Because of each of these matters the capacity forecast in the LTFP is below acceptable levels and action is required to ensure that recurrent services. including allocating appropriate budgets for asset maintenance and renewal can be provided in a sustainable manner into the future.

The main purpose of the LTFP is to guide and inform decision making in respect to Council's financial sustainability. The LTFP establishes the framework for The key provides an insight as to the financial sustainability of the Council over the planning period of this document. objectives in developing this Plan are: sound financial decisions and

- Balanced Budgets
- Continuous Financial Improvement

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e

As nart of undertaking financial modelling, key assumptions that undernin the forecasts must he made. The 2022/23 Original Rudget has heen used as its
Council's future financial position has been forecast on the basis of a continuance of 'normal operations' including providing for the expenditure requirements
identified in recently revised Asset Management Plans.
Councillor Briefings
Since the adoption of the current published LTFP at the 13 March 2019 General Meeting of Council further revisions have been necessary due to various
budget challenges. These revisions have been endorsed by Councillors at various briefing workshops held during November 2020, February 2021, March
and April 2022. These briefing workshops were held to advise Councillors of revisions required to the LTFP due to changed economic conditions impacting
Council's financial position, reaffirm priorities, provide updated asset management requirements and to plan for any necessary budget adjustments in future
annual budgets.
Priorities reaffirmed by Councillors identified in the 2019 version of the LTFP are:
Revitalisation of the Hornsby Quarry and Westleigh Sportsground projects as per funds received from the NSW Government's Stronger Community
Funding allocated to Council together with a recurrent allocation towards maintaining these sites upon construction
Continuation of Public Domain improvements for Asquith to Mt Colah and an allocation of funding for improvements in Galston
Greater allocation towards new footpaths
Improvements to Wallarobba Arts and Cultural Centre
Heritage Planning Study

Reduction in External Loan Borrowing

•

Achieve/Maintain Financial Sustainability Benchmarks (Indicators prescribed by the Office of Local Government) •

Hornsby Shire Council

General Meeting 11 May 2022

al Meeting 1'	
1 May	Future Direction
2022	The Income Statement result before capital items over the 10-year period forecasts a deficit in eight out of ten years and there is an average deficit of (\$4.736) million per year. The budget result over the 10 year period also predicts a deficit in eight out of ten years and there is an average cash deficit of
	(\$3.096) million per year. The cash deficits forecast will result in the use of Council's unrestricted cash balance and/or the repurposing of internally restricted
	assets during the period of the Plan to fund recurrent operations, which is unsustainable. Therefore, additional funding must be generated to rebalance results
	within acceptable levels.
	If unaddressed the reduced financial capacity will limit Council in a number of ways:
	1. Normal Operations
	There is insufficient capacity within the LTFP to fund the continuance of normal operations into the future. Additional funding must be identified to fund the
	deficits forecast in future years or services may need to be reduced to ensure a balanced budget each year.
	2. Asset Management

Genera

There is insufficient capacity within the LTFP to fund the requirements identified in Council's Asset Management plans to maintain assets in a satisfactory condition. As a result, the condition of Council's assets will decline and the level of infrastructure backlog will increase unless funding is identified.

3. Major Capital Projects

The funding available for the redevelopment of Hornsby Park is limited to the funds that have been set aside for this project from Development Contributions and from the NSW Government's 'Stronger Community Funds' Increased community expectations around the scope of this project will need to be limited to the amount that has been set aside based on a budget of \$79.4 million with acknowledgement that the full scope of works identified in the Master Plan cannot currently be completed given the associated estimated capital cost of \$130 million.

ATTACHMENT 1 -

within the LTFP to fund the ongoing recurrent costs of both sites. There is also an unavoidable level of financial risk from the size of the works being sustainability should costs or scope increase. To reduce some of the financial risk that Council is exposed to works at Westleigh Park should not commence The preference made by the previous Council to progress Hornsby Park instead of Westleigh Park should also be reinforced as there is insufficient capacity impact on Council's financial until after the completion of Homsby Park. Recurrent funding for ongoing maintenance and renewal must also be identified before Westleigh Park can as demonstrated by the Sensitivity Analysis section of this report would have a significant commence as there is not currently a budget allocated for this undertaken at Hornsby Park that,

4. Strategic Initiatives

consultation is required to prioritise the initiatives identified and test the appetite of residents to pay for initiatives through a special rate variation. Council should also consider the risk in creating future new strategies as the quantum of unfunded initiatives in the existing documents have an estimated cost of at There is insufficient capacity within the LTFP to fund the initiatives identified across Council's recently adopted strategic and technical documents. Community east \$8.8 million based on funding 50% of the identified actions only

Action to Improve Future Direction

Future operating capacity is below acceptable levels, and it must be improved to ensure recurrent services can be provided into the future including the need to provide sufficient funding to maintain Council's assets in a satisfactory condition. The following is recommended:

- Continue with Council's application to IPART for a 2.28% additional special rate variation on a permanent basis for 2022/23 •
- Consider a further special rate variation to rebalance Council's finances within acceptable levels over the long term. Priority should be given to meeting asset management requirements and ensuring there is sufficient funding for recurrent services. A special rate variation is recommended in the first nstance because of the quantum of funds required to provide balanced budgets. However, other funding initiatives such as the generation of additional income from increases to user fees and charges could be explored to potentially reduce the size of a special rate variation required

Ŋ

Undertake community consultation with regards to the unfunded initiatives identified within Council's recently adopted Strategic and Technical
documents. The consultation should assess the appetite of the community for a further rate rise to pay for initiatives and establish priorities.
Council should carefully assess whether there is value in creating any further strategic documents given unfunded initiatives in existing documents
require at least \$8.8 million of funding (based on preliminary costing for 50% of the actions identified only).
Continue with the previously agreed position to develop Hornsby Park ahead of Westleigh Park including reinforcing this messaging to the community.
To mitigate financial risk works at Westleigh Park should not be undertaken until it is financially appropriate to commence. The development of Westleigh
Park also requires a recurrent budget for operations and asset maintenance and renewal expenditure to be identified.
Communicate the scope of works that can realistically be completed at Homsby Park based on the available budget to the community and how this
differs to the full scope of the master plan.
Carefully consider the acceptance of further external grants for capital purposes. There is insufficient capacity within the LTFP to fund the associated
recurrent costs from any new capital that is not already included in the LTFP. It may be in Council's best financial interests to decline capital grant
funding depending on whether an evidence-based need for the project exists within Council's strategic documents, and depending on the availability of
budgets to fund recurrent costs.
Review other income streams such as fees and charges to ensure appropriate price setting and assess whether price increases could be used to
generate additional income.
Apply a freeze to Council's approved Full Time Equivalent headcount where appropriate; with no new positions to be created unless offset by an
equivalent position elsewhere.
Maintain cost increases to modest levels in regard to non-labour related expenses each year.
Continuance of financial improvement initiatives (the development of business improvement plans)
Consider whether there is a case to rationalise underutilised assets to reduce ongoing cost requirements and/or provide one off capital funding from sale
proceeds towards other capital investment decisions.
2

	Introduction Councils LTFP is a requirement under the Integrated Planning and Reporting framework for NSW Local Government and forms part of the Resourcing Strategy. The LTFP must be for a minimum of 10 years with the purpose of making clear the financial direction of Council as well as the impact of that direction on achieving community priorities. The LTFP is based on Council's draft 2022/33 budget, which was adopted for public exhibition on 13 April 2022 and is expected to be adopted by Council in June 2022. The 2022/23 budget forms the LTFP. Future years are based on a range of forecasted assumptions used to determine: • Future revenue and expenditure (Income Statement result) • Budget summary (cash liquidity result)
--	--

JL	June 2022. The 2022/23 budget forms the first year of the LTFP. Future years are based on a range of forecasted assumptions used to determine:
•	Future revenue and expenditure (Income Statement result)
•	Budget summary (cash liquidity result)
•	A projection for a range of key financial indicators prescribed by the Office of Local Government
•	Balance Sheet and Cash Flow Statements
È	The main purpose of the LTFP is to guide and inform decision making. The LTFP establishes the framework for sound financial decisions and to provide an
,ü	insight as to the financial sustainability of the Council over the planning period of this document. In addition to the presentation of financial results, information
N	will be provided in respect to:
•	Financial planning assumptions used
•	An analysis of the factors and/or assumptions that are most likely to affect the plan
•	Methods of monitoring financial performance

- •
- An analysis of the fa
- Methods of monitori •

Financial planning over a ten year horizon is difficult and obviously relies on a variety of assumptions that may be subject to change during this period. The LTFP will therefore be closely monitored, and regularly revised, to reflect these changing circumstances. ω

In preparing the LTFP a number of key objectives have been considered. These objectives are listed below.

Balanced Budgets

Council has a strong commitment to adopting annually a balanced budget. To ensure there is capacity to respond to budget shocks that can occur such as infrastructure asset failures and natural disasters a 2% budget surplus/Operating Performance ratio is aimed for at the start of each year. This is considered financially prudent to respond to one off budget shocks that can occur over the course of the year

Asset account, which is used to fund key strategic capital projects that require reasonable capital investment from the Council or to fund cash shortfalls in Where a surplus budget is generated at the end of a financial year this amount will be directed towards the Capital Projects and Debt Retirement Restricted future years of the Plan. This is consistent with Council's objective to maintain prudent financial management of its finances and to allocate financial surpluses towards key strategic issues.

Continuous Financial Improvement

Council has a longstanding commitment towards reviewing costs while maintaining existing service levels. This will require ongoing support towards:

- A general freeze on any non-labour operational expenditure unless grants and/or fees and charges can support an increase. Increases in these budgets are only increased after all options have been extensively explored. •
- Prioritising funding requirements identified in Council's Asset Management Plans before new initiatives.
- Evaluation on a periodic basis of Council's activities to determine our competitiveness in terms of service provision and financial viability.
- To review Council's existing capital decisions ensuring business evaluations are undertaken where necessary to ascertain value and meet Capital Governance Framework requirements.
- Review of fees and charges to ensure closer alignment with costs.

ucuon in external Loan Borrowing
icil has a commitment towards reducing the need to externally borrow for annual capital works programs. This has been made possible by various
eed to borrow annually for recurrent capital projects.
orecast that Council will be debt free by 30 June 2023 and the only ongoing borrowing cost in the LTFP after this point represents notional interest that is
gnised for leased IT equipment and office space in line with accounting standards. There are forecast budget deficits in future years of the LTFP that
ld be funded prior to considering further external loan borrowing.
ieve/Maintain Local Government Performance Indicators
Office of Local Government has prescribed a range of Performance Indicators that are used to measure Council's financial position to assess its financial
inability. A benchmark is set for each indicator, which sets the level of financial sustainability that Council should aim to achieve for each indicator, and it
equirement to report on each of the indicators in Council's annual financial statements.
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Reduction in External Loan Borrowing

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ITEM

ATTACHMENT 1 -

Indicator	Quantitative Measure	Definition	Benchmarks
Operating Performance Ratio	Measures a council's ability to	Operating revenue (excluding capital	>0% (OLG Benchmark)
	contain operating expenditure within	grants and contributions less	>2% (Council Benchmark)
	operating revenue.	operating expenses)/Operating	The OLG set a benchmark is 0%. For
		revenue (excluding capital grants and	this to be achieved it is
		contributions)	recommended that an Operating
	r		Performance Ratio/Budget Surplus of
			2% is forecast at the start of each
			year to respond to budget shocks
			that can occur throughout the year.
Own Source Operating Revenue	Measures the level of a council's	Total operating revenue less	>60%
Ratio	fiscal flexibility. It is the degree of	(inclusive of capital grants and	
	reliance on external funding sources	contributions) / Total operating	
	such as operating grants and	revenue	
	contributions.		
Unrestricted Current Ratio	This ratio is specific to local	Current assets less all external	>1.5
	government and is designed to	restrictions/current liabilities less	
	assess the adequacy of working	specific purpose liabilities	
	capital and the ability to satisfy		
	obligations in the short term for		
	unrestricted activities of council.		
Debt Service Cover Ratio	The availability of operating cash to	Operating Result before capital	> 2

service debt including interest, excluding interest and depreciation / excluding interest and lease payments. Principal Repayments (from the Statement of Cash Flows +	Borrowing Interest Costs (from the Income Statement) Income Statement) Compares actual versus required Actual maintenance / Required asset	maintenance Asset renewals/Depreciation of	he building and infrastructure assets	This ratio shows what proportion the backlog is against total value of aEstimated cost to bring assets to a<2%	
principal	Asset Maintenance Ratio	Ratio		Infrastructure Backlog Ratio This ratio backlog i council's	

Financial Planning Assumptions

The assumptions utilised in the LTFP have been sourced and compared to various publications such as: BIS Oxford Economics, TCorp's economic forecasts and economic forecasts from Reuters As part of undertaking financial modelling, key assumptions that underpin the forecasts must be made.

The 2022/23 budget has been used as its base point, then makes a number of market driven and internal assumptions to project revenue and expenditure over the forecasted period. Several one-off recurring adjustments have also been included in the LTFP to provide funding for strategic initiatives agreed to by Councillors

Councillor Briefings

Since the adoption of the current published LTFP at the 13 March 2019 General Meeting of Council further revisions have been necessary due to various budget challenges. These revisions have been endorsed by Councillors at various briefing workshops held during November 2020, February 2021, March and April 2022. These briefing workshops were held to advise Councillors of revisions required to the LTFP due to changed economic conditions impacting Council's financial position, reaffirm priorities, provide updated asset management requirements and to plan for any necessary budget adjustments in future annual budgets.

Priorities reaffirmed by Councillors identified in the 2019 version of the LTFP are:

- Revitalisation of the Hornsby Quarry and Westleigh Sportsground projects as per funds received from the NSW Government's Stronger Community Funding allocated to Council together with a recurrent allocation towards maintaining these sites upon construction
- Continuation of Public Domain improvements for Asquith to Mt Colah and an allocation of funding for improvements in Galston
- Greater allocation towards new footpaths
- Improvements to Wallarobba Arts and Cultural Centre
- Heritage Planning Study

Service Levels – Normal Continuance of Service & Asset Management Planning Council's tuture financial position has been forecast based on a continuance of 'normal operations'. This is difficult to define but can be regarded as the provision of services to stakeholders at levels of service that they have come to expect on a regular basis. Levels of service however may not remain the same given changes in community expectations in future years of the plan. Asset Management Planning Council controls an asset base with a gross replacement cost in the order of \$2 billion. Managing each of Council's assets in a fiscally responsible manner to provide agreed levels of service to the community is one of Council's core responsibilities. Therefore, it is an objective of the LTFP to ensure that ten-year forecast expenditure requirements within each of Council's Asset Management Planning section of this report.

 Borrowing Costs Materials and Contracts Materials and Contracts Depreciation Other Expenses Other Expenses Employee Benefits and On-costs Employee costs include salaries, wages, superannuation, leave entitlements, training, workers compensation premiums and other employee related expenses Employee costs include salaries, wages, superannuation, leave entitlements, training, workers compensation premiums and other employee related expenses Employee costs include salaries, wages, superannuation, leave entitlements, training, workers compensation premiums and other employee related expenses Employee costs include salaries, wages, superannuation, leave entitlements, training, workers compensation premiums and other employee related expenses Employee costs include salaries, wages, superannuation, leave entitlements, training, workers compensation premiums and other employee related expenses 	workers compensation premiums and other employee
 Materials and Contracts Depreciation Other Expenses Other Expenses Employee Benefits and On-costs Employee costs include salaries, wages, superannuation, leave entitlements, training, expenses. For the year ending June 2023 the forecast expenditure increase has been based on the Government Award increases are not yet known therefore the forecast expenditure increase appropriately reflect the impact of the forecast inflationary environment over the next 10 year 	, workers compensation premiums and other employee
 Depreciation Other Expenses Other Expenses Employee Benefits and On-costs Employee costs include salaries, wages, superannuation, leave entitlements, training, expenses. For the year ending June 2023 the forecast expenditure increase has been based on the Government Award increases are not yet known therefore the forecast expenditure increase appropriately reflect the impact of the forecast inflationary environment over the next 10 year 	workers compensation premiums and other employee
 Other Expenses Other Expenses Employee Benefits and On-costs Employee costs include salaries, wages, superannuation, leave entitlements, training, expenses. For the year ending June 2023 the forecast expenditure increase has been based on the Government Award increases are not yet known therefore the forecast expenditure increase appropriately reflect the impact of the forecast inflationary environment over the next 10 yet 	workers compensation premiums and other employee
Employee Benefits and On-costs Employee costs include salaries, wages, superannuation, leave entitlements, training, expenses. Evenses. For the year ending June 2023 the forecast expenditure increase has been based on the Government Award increases are not yet known therefore the forecast expenditure increase appropriately reflect the impact of the forecast inflationary environment over the next 10 year	workers compensation premiums and other employee
Employee costs include salaries, wages, superannuation, leave entitlements, training, expenses. Expenses. For the year ending June 2023 the forecast expenditure increase has been based on the Government Award increases are not yet known therefore the forecast expenditure increase appropriately reflect the impact of the forecast inflationary environment over the next 10 year	workers compensation premiums and other employee
expenses. For the year ending June 2023 the forecast expenditure increase has been based on the Government Award increases are not yet known therefore the forecast expenditure increase appropriately reflect the impact of the forecast inflationary environment over the next 10 yes	
For the year ending June 2023 the forecast expenditure increase has been based on the Government Award increases are not yet known therefore the forecast expenditure increase appropriately reflect the impact of the forecast inflationary environment over the next 10 year	
Government Award increases are not yet known therefore the forecast expenditure increase appropriately reflect the impact of the forecast inflationary environment over the next 10 year	unthished local covernment award increase of 2%. Furth
appropriately reflect the impact of the forecast inflationary environment over the next 10 yes	se has been based on the Wages Price Index, which is de
	ars.
2023 2024 2025 2026 2027 2028 2029 2030 2	2031 2032
Salary 2.0% 2.4% 3.1% 3.1% 3.1% 3.1% 3.3% 3	3.3% 3.3%
Movement	

Expenditure Assumptions

Hornsby Shire Council

The major expense categories for Council's operating budget are:

Employee Benefits and On-costs

ILS
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working
ers and employee
and e
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in existing
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e is
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No material

Workers compensation expense is expected to increase in line with salaries and wages

Borrowing Expenses

servicing from previous external loan borrowing will cease at the end of 2022/23 and the only remaining borrowing expenses in Council's Income Statement A key objective by Council has been to reduce the level of external borrowing and so this Plan has been predicated on no loan borrowing. The level of debt will relate to a notional interest on leases for IT equipment and the Thornleigh Office that are recognised as required by Australian Accounting Standards. External borrowing could be a strategy considered by Council to assist in funding significant capital projects to benefit future generations or to acquire assets Whilst this strategy could be considered by Council in future years the use of loan borrowing would be an unsuitable option for Council at this time. Forecast that are income producing or that hold strategic value. The beneficiaries of these future projects will assist in their funding as their rates will be applied in part to repaying the loans. This contrasts with current ratepayers bearing the entire burden in one year, possibly at the expense of other worthy expenditures. recurrent budget deficits should be funded prior to committing Council to interest and principal repayments that would require further recurrent funding.

The Consumer Price Index has been chosen as the relevant factor in modeling these expenses over the term of the Plan. This has been sourced from B Oxford Economics using the compound amual growth rate estimated for this finneframe. <u>And interval</u> <u>2023</u> <u>2024</u> <u>2056</u> <u>2056</u> <u>2026</u> <u>2029</u> <u>2030</u> <u>2031</u> <u>2032</u> <u>21%</u> <u>21%</u> <u>21%</u> <u>21%</u> <u>25%</u>												
The Consumer Price Index has been chosen as the relevant factor in modeling these expenses over the term of the Plan. This has been sourced from BIS Oxford Economics using the compound amual growth rate estimated for this filmeframe. Oxford Economics using the compound amual growth rate estimated for this filmeframe. Additional material and contract related assumptions include: • Maintain cost increases to modest levels in regards to non-labour related expenses. • The inclusion of 10 year forecasts for asset maintenance as required by Council's Asset Management Plans Depreciation Bepreciation is an allowance or provision made in the financial records for "wear and lear" and "lechnical obsolescence" of plant and equipment. The idea of depreciation is an allowance or provision made in the financial records for "wear and lear" and "lechnical obsolescence" of plant and equipment. The idea of depreciation is an allowance for new projects less retirements has been used as the basis for determining depreciation expense. Depreciation records for the point of of its "useful if to the emitty" that currently owns it. Council's existing depreciation schedule, plus an allowance for new projects less retirements has been used as the basis for determining depreciation expense. Depreciation for exasts relate to existing assets and to Council's extensive capital works program. The Council's assets are also being progressively revalued to far value in accordance with asset revaluation cycles issued by the Office of Local Government, which typically cause increases to the depreciation expense from the recognition of asset replacement cost increases that occur over time.												
Oxford Economics using the compound amual growth rate estimated for this timeframe. Image: Sign 2023 2024 2025 2026 2037 203 2031 2032 Image: Sign 2014 21% 25% <t< td=""><td>The Cons</td><td>sumer Pr</td><td>ice Index</td><td>has beer</td><td>i chosen</td><td>as the rele</td><td>evant fact</td><td>or in mod</td><td>elling thes</td><td>e expens</td><td>ses over the term of the Plan. This</td><td>s has been sourced from Bl</td></t<>	The Cons	sumer Pr	ice Index	has beer	i chosen	as the rele	evant fact	or in mod	elling thes	e expens	ses over the term of the Plan. This	s has been sourced from Bl
2023 2024 2025 2026 2027 2028 2031 2032 CPI 2.1% 2.1% 2.5	Oxford Er	conomics	using th	e compou	nd annua	l growth ra	ate estima	ited for th	is timefrar	ne.		
CPI 2.1% 2.5%		2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	
Additional material and contract related assumptions include: Maintain cost increases to modest levels in regards to non-labour related expenses. The inclusion of 10 year forecasts for asset maintenance as required by Council's Asset Management Plans Depreciation is an allowance or provision made in the financial records for "wear and tear" and "technical obsolescence" of plant and equipment. The idea of depreciation is to spread the cost of that capital asset over the period of its "useful life to the entity" that currently owns it. Council's existing depreciation is to spread the cost of that capital asset over the period of its "useful life to the entity" that currently owns it. Council's existing depreciation is to spread the cost of that capital asset over the period of its "useful life to the entity" that currently owns it. Council's existing depreciation is to spread the cost of that capital asset over the period of its "useful life to the entity" that currently owns it. Council's existing depreciation is to spread the cost of that capital asset over the period of its "useful life to the entity" that currently owns it. Council's existing depreciation schedule, plus an allowance for new projects less retirements has been used as the basis for determining depreciation expense. Depreciation forecasts relate to existing assets and to Council's extensive capital works program. The Council's assets are also being progressively revalue to fair value in accordance with asset revaluation cycles issued by the Office of Local Government, which typically cause increases to the depreciatio expense from the recognition of asset replacement cost increases that occur over time.	CPI	2.1%	2.1%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	
 Maintain cost increases to modest levels in regards to non-labour related expenses. The inclusion of 10 year forecasts for asset maintenance as required by Council's Asset Management Plans Depreciation Depreciation Depreciation Second a first for the entity The inclusion of 10 year forecasts for asset maintenance as required by Council's Asset Management Plans Depreciation Second first Council's existing depreciation Depreciation Is spread the cost of that capital asset over the period of its "wear and tear" and "technical obsolescence" of plant and equipment. The idea depreciation Is an allowance or provision made in the financial records for the entity The currently The cost of that capital asset over the period depreciation is oppreciation schedule, plans an allowance for new projects schedule, plans an allowance for new projects schedule, plans and council's schedule, plans and council's council's schedule, plans and council's council's cost of the matupation council's council's council's	Additiona	l materia	and con	tract relat	ed assum	ptions inc	Inde:					
 The inclusion of 10 year forecasts for asset maintenance as required by Council's Asset Management Plans Depreciation Depreciation is an allowance or provision made in the financial records for "wear and tear" and "technical obsolescence" of plant and equipment. The idea of depreciation is to spread the cost of that capital asset over the period of its "useful life to the entity" that currently owns it. Council's existing depreciation is to spread the cost of that capital asset over the period of its "useful life to the entity" that currently owns it. Council's existing depreciation is to spread the cost of that capital asset over the period of its "useful life to the entity" that currently owns it. Council's existing depreciation schedule, plus an allowance for new projects less retirements has been used as the basis for determining depreciation expense. Depreciation forecasts relate to existing assets and to Council's extensive capital works program. The Council's assets are also being progressively revalue to fair value in accordance with asset revaluation cycles issued by the Office of Local Government, which typically cause increases to the depreciatio expense from the recognition of asset replacement cost increases that occur over time. 	 Maint 	tain cost	increases	to mode	st levels ir	n regards	to non-lab	our relate	expens	es.		
Depreciation Depreciation is an allowance or provision made in the financial records for "wear and tear" and "technical obsolescence" of plant and equipment. The idea of depreciation is to spread the cost of that capital asset over the period of its "useful life to the entity" that currently owns it. Council's existing depreciatio schedule, plus an allowance for new projects less retirements has been used as the basis for determining depreciation expense. Depreciation forecasts relate to existing assets and to Council's extensive capital works program. The Council's assets are also being progressively revalue to fair value in accordance with asset revaluation cycles issued by the Office of Local Government, which typically cause increases to the depreciatio expense from the recognition of asset revaluation cycles issued by the Office of Local Government, which typically cause increases to the depreciatio expense from the recognition of asset replacement cost increases that occur over time.	• The ii	nclusion	of 10 yea	r forecast	s for asse	t mainten	ance as re	equired by	/ Council's	s Asset Ma	lanagement Plans	
Depreciation is an allowance or provision made in the financial records for "wear and tear" and "technical obsolescence" of plant and equipment. The idea of depreciation is to spread the cost of that capital asset over the period of its "useful life to the entity" that currently owns it. Council's existing depreciation schedule, plus an allowance for new projects less retirements has been used as the basis for determining depreciation expense. Depreciation forecasts relate to existing assets and to Council's extensive capital works program. The Council's assets are also being progressively revalued to fair value in accordance with asset revaluation cycles issued by the Office of Local Government, which typically cause increases to the depreciation expense from the recognition of asset replacement cost increases that occur over time.	Deprec	iation										
depreciation is to spread the cost of that capital asset over the period of its "useful life to the entity" that currently owns it. Council's existing depreciation schedule, plus an allowance for new projects less retirements has been used as the basis for determining depreciation expense. Depreciation forecasts relate to existing assets and to Council's extensive capital works program. The Council's assets are also being progressively revalue to fair value in accordance with asset revaluation cycles issued by the Office of Local Government, which typically cause increases to the depreciatio expense from the recognition of asset replacement cost increases that occur over time.	Depreciat	tion is an	allowanc	e or provi	ision mad	e in the fii	nancial re	cords for	"wear and	tear" and	d "technical obsolescence" of plant	t and equipment. The idea c
schedule, plus an allowance for new projects less retirements has been used as the basis for determining depreciation expense. Depreciation forecasts relate to existing assets and to Council's extensive capital works program. The Council's assets are also being progressively revalue to fair value in accordance with asset revaluation cycles issued by the Office of Local Government, which typically cause increases to the depreciatio expense from the recognition of asset replacement cost increases that occur over time.	depreciat	ion is to	spread th	he cost of	f that cap	ital asset	over the	period of	its "usefu	l life to th	ne entity" that currently owns it. C	ouncil's existing depreciatio
Depreciation forecasts relate to existing assets and to Council's extensive capital works program. The Council's assets are also being progressively revalue to fair value in accordance with asset revaluation cycles issued by the Office of Local Government, which typically cause increases to the depreciatio expense from the recognition of asset replacement cost increases that occur over time.	schedule	, plus an	allowanc	e for new	projects le	ess retirer	nents has	been use	ed as the l	asis for d	determining depreciation expense.	
to fair value in accordance with asset revaluation cycles issued by the Office of Local Government, which typically cause increases to the depreciatio expense from the recognition of asset replacement cost increases that occur over time.	Depreciat	tion forec	asts relat	te to exist	ing assets	s and to C	ouncil's e	xtensive (capital wo	ks progra	am. The Council's assets are also	being progressively revalue
	to fair va	ilue in ac	cordance	e with ass	set revalu	ation cycl	es issued	by the (Office of I	-ocal Gov	vemment, which typically cause i	ncreases to the depreciatio
	expense	from the	recognitic	on of asse	et replacer	nent cost	increases	that occu	ır over tim	e.		
												-

Hornsby Shire Council

Materials and Contracts

capital works program and the increase in gross replacement cost of existing assets that is recognised each time a revaluation is undertaken.	ргодган	2 2 2									
Other Expenses	enses etion of	coste	t topa	ie cotoco	include	se itome	oc quin	ctroot link	Afine utilit	Other Expenses This anneolidation of code under this rationant includes itoms such as stroot liability code, incurance, load code, statitary channes and other	othor
program expenditure.	nditure.	cicon		lis catego				Sileet IId	inng, dun	ny vosis, insurances, regar vosis, statutory vitalges and	
e Consume	sr Price I	ndex h	as been	chosen a	as the rele	want facto	or in mod	elling thes	se expense	The Consumer Price Index has been chosen as the relevant factor in modelling these expenses over the term of the Plan. This has been sourced from BIS	n BIS
Oxford Economics using the compound annual growth rate estimated for this timeframe	mics usi	ing the	compour	nd annual	l growth ra	ate estima	ated for th	iis timefra	me.		
2023	3 2024		2025	2026	2027	2028	2029	2030	2031	2032	
CPI 2.1%	6 2.1%	\square	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	
Additional other expense related assumptions include:	er expen	tse rela	ited assu	umptions i	include:						
Election expenses provided for in relevant years	xpenses	s provid	led for in	relevant	years						
Maintain cost increases to modest levels regarding non-labour related expenses	ost incre	eases t	o modes	t levels re	egarding n	ion-labou	r related	expenses			
											18

Hornsby Shire Council

Revenue Assumptions
The major revenue categories for Council's operating budget are:
Rates and Annual Charges
User Charges and Fees
Interest and Investment Revenue
Other Revenue
Grants and Contributions provided for Operating Purposes
Grants and Contributions provided for Capital Purposes
Rates and Annual Charges
Rates and Charges are a major source of Council's revenue, representing more than 80% of own source revenue. The amount of rates income a council
may levy is limited by rate pegging. Rate pegging refers to the process in which the State Government determines annually the allowable increase in rates,
which is referred to as the rate peg. This allowable increase is announced annually by the Independent Pricing and Regulatory Tribunal (IPART).
The approved rate pegging increase for 2022/23 was set at 0.7% which Council has applied to the calculation of rates income in that year. For future years
the rate peg increase has been applied based on the historic average, which has been approximately 2.28%.
The 2022/23 rate peg set by IPART is significantly below the historic average and is less than forecast cost increases for salaries and wages and materials
and services. The Minister for Local Government in response to financial sustainability concerns raised by the Local Government sector has announced a
one-off opportunity for the 2022/23 financial year for Council to apply to the IPART to increase the 2022/23 rate peg to 2.28%. This is discussed further within
the Additional Special Rate Variation of this report.
Additional Rates and Annual Charges related assumptions include:
Additional Rates and Annual Charges related assumptions include:

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ITEM

ATTACHMENT 1 -

an app	an appropriate fee for its services.	e for its s	ervices.							
The C	onsumer P	rice Index	x has bee	n chosen	as the rel	evant fact	or in mod	elling thes	se expen	The Consumer Price Index has been chosen as the relevant factor in modelling these expenses over the term of the Plan. This has been sourced from BIS
Oxforc	Oxford Economics using the compound annual growth rate estimated for this timeframe.	s using th	ne compo	und annué	al growth r	ate estim:	ated for th	is timefrar	ne.	
	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
CPI	2.1%	2.1%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%	2.5%
Inter	Interest and Investment Revenue	nvestm	ent Rev	enue						
Intere	st on invest on estima	tments wi ted cash-	II vary ov: flow (allo	er the Plar wing for ∈	n period di stimated	ue to cash infrastruct	ure projec	ls and inte ct expend	erest rate iture) an	Interest on investments will vary over the Plan period due to cash-flow levels and interest rate percentages. The LTFP calculates the interest on investments based on estimated cash-flow (allowing for estimated infrastructure project expenditure) and base rate set by the Reserve Bank of Australia. The margin
earner and ar	earned on each of Council's investment p and are based on forecasts from Reuters.	of Counci 1 forecast	l's investr s from Re	ment prodiuters.	ucts abov	e the base	e rate has	been sou	urced fro	earned on each of Council's investment products above the base rate has been sourced from Council's investment advisor, Prudential Investment Services and are based on forecasts from Reuters.
The p(ercentage i	nvestmen	it return o	n Council'	's portfolio	is forecas	st to increa	ase over th	he period	The percentage investment return on Council's portfolio is forecast to increase over the period of the LTFP in line with expected increases to the base rate set
by the	by the Reserve Bank of Australia. The total av	ank of Au	ustralia. Ti	he total av	erage exp	bected retu	um ranges	from 1.7	8% in 20	erage expected retum ranges from 1.78% in 2022/23 to 3.12% in 2031/32.

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ITEM

ATTACHMENT 1 -

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General Meeting 11 May 2022

Growth on existing residential dwellings has been included in the Plan.

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Other Revenue

lt is Miscellaneous revenue is obtained from a variety of sources including insurance recoveries, parking fines, legal costs recovered, property rentals, etc. anticipated that other revenue will be maintained at current levels with CPI adjustments as reported above.

Hornsby Shire Council

Grants and Contributions

Development Contributions are expected to continue in line with 2020- and 2021-income levels, which represents a decline in development activity since the Capital contributions received in respect to Council's Section 711 Development Contribution Plan are to be Council receives a number of operational and capital grants from various Federal and State Government agencies. Capital contributions such as Section 711 spent in accordance with the works program identified in this Plan. peak in Hornsby Shire between 2015 and 2017.

It is anticipated that grants and contributions revenue will be maintained at current levels with CPI adjustments being applied.

Capital Expenditure

This represents expenditure towards both the creation of new infrastructure assets and the renewal of existing assets (i.e. roads, drainage, footpaths and sportsgrounds). This expenditure category also includes capital purchases (i.e. information technology, fleet and plant assets) Council's capital works program for 2022/23 totals \$66 million which is largely funded by external grants and restricted asset funding, as well as from general The most significant capital cash flows are for major projects that are funded from external grants and restricted assets. Recurrent capital budgets such as for routine asset renewal are funded from general funds and other recurrent income sources funds.

This Plan has forecast capital expenditure at the following levels. This excludes the additional requirements identified in Council's revised Asset Management Plans as discussed within the Asset Management Plan section of this report. 3

Attachment to Report No. CS33/22 Page 22

2026 2027 2028 2029 2030 2031 2032	\$24.6M \$25.0M \$29.6M \$41.0M \$42.5M \$27.6M \$28.1M		have historiaal lavele of anarovinately ©26 to ©20 million due to covered and off infracturatures and offi	It is noted that capital experior the increased above instorical revers of approximately \$23 to \$30 minimum due to several one-on minastructure projects as listed below:	Homsby Quarry Revitalisation and Westleigh Sportsground allocated at the amount received through the NSW Government's Stronger Community	Funding plus available S7.11 development contribution funds for Hornsby Park.	Mark Taylor oval revitalisation (funded from the NSW Government's Stronger Community Fund).	Public Domain improvements for Asquith to Mt Colah and Galston with other sites to progress as part of investigations into public domain		Improvements to Wallarobba Arts and Cultural Centre – Stage 2	Projects funded by development contributions in accordance with the timings identified in Council's 2020 - 2030 Development Contributions Plan	noting that the timing of some projects has been brought forward in line with a commitment made by Council to the Department of Planning, Industry	and Environment to accelerate expenditure to provide economic stimulus following the COVID-19 pandemic.	Councils Best Estimate from Applying Financial Assumptions	The key financial information that follows in the form of financial statements and indicators are results based on a range of forecast financial assumptions.	These assumptions can change due to variations in economic conditions and/or a change in priorities set by Council. It is therefore intended that the financial	assumptions be reviewed annually and compared to the actual results on an annual basis. This will be achieved via the reporting in Council's Annual Report	by comparing the actual results on key financial statements and indicators to the forecasted figures for that year. Any issues identified through this process	will be considered in the updating of the LTFP for the following year.	
2025	\$69.0M				and West	levelopme	(funded fro	or Asquith	ruction	vrts and Cu	ent contrib	projects h	expenditu	Applying	ws in the	variations	d compare	y financial	e LTFP for	
2024	\$65.9M				evitalisation	able S7.11 c	vitalisation	rovements	otpath consi	Vallarobba /	/ developm	ng of some	o accelerate	ate from	on that follc	ange due to	annually and	sults on ke	dating of th	
2023	\$66.0M			ו כמטוומו פאטנ	by Quarry R _t	ng plus availé	Taylor oval re	Domain imp	Increase in new footpath construction	vements to V	ts funded by	that the timi	nvironment to	est Estimé	cial informati	otions can ch	be reviewed a	the actual re	ered in the up	
	Capital	Expenditure	It is noted that	listed below:	 Homs 	Fundii	 Mark 	 Public 	 Increa 	• Impro	 Project 	noting	and E	Councils B	The key finan	These assump	assumptions t	by comparing	will be conside	

of Service
Continuance
- Normal
Results -

revised Asset Management Plans are not included within this version of the LTFP and the 2022/23 rate peg is set at 0.7% being the approved rate peg set by The following results are based on forecast income and expenditure based on a continuance of 'normal' operations. The funding requirements of Council's IPART.

Income Statement (Financial Statement Result)

Hornsby Shire Council												
10 Year Financial Plan for the Years ending 30 June 2	e 2032											
INCOME STATEMENT - GENERAL FUND	Actuals	Current Year					Projecte	Projected Years				
Normal Continuance of Services	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
	s	\$	\$	s	S	\$	\$	S	\$	\$	\$	\$
Income from Continuing Operations												
Revenue:												
Rates & Annual Charges	100,700,000	102,135,834	108,034,975	110,437,192	113,031,257	115,686,369	118,403,968	121,185,526	124,032,553	126,946,592	129,929,224	132,982,065
User Charges & Fees	14,002,000	14,271,474	14,233,154	14,532,377	14,895,686	15,268,078	15,649,780	16,041,025	16,442,050	16,853,102	17,274,429	17,706,290
Other Revenues	4,857,000	6,543,874	6,784,074	6,926,540	7,099,703	7,277,196	7,459,126	7,645,604	7,836,744	8,032,663	8,233,479	8,439,316
Grants & Contributions provided for Operating Purposes	10,862,000	8,357,903	12,770,694	13,038,879	13,364,850	13,698,972	14,041,446	14,392,482	14,752,294	15,121,102	15,499,129	15,886,608
Grants & Contributions provided for Capital Purposes	19,002,000	10,621,715	8,350,000	9,282,453	9,387,014	9,494,190	9,604,044	9,716,646	9,832,062	9,950,363	10,071,622	10,195,913
Interest & Investment Revenue	5,429,000	3,992,059	4,929,651	5,389,132	4,460,381	3,787,181	3,765,726	3,852,727	3,858,110	3,888,975	3,917,278	3,871,795
Other Income:												
Fair value increment on investment properties	97,000	'	100,000	102,100	104,653	107,269	109,951	112,699	115,517	118,405	121,365	124,399
Reversal of impairment losses on receivables	(1,000)	1	•	•	•	1	•				1	1
Rental Income	3,258,000	•	•	•	•	'	•	•		'	•	'
Total Income from Continuing Operations	158,206,000	145,922,859	155,202,549	159,708,672	162,343,545	162,343,545 165,319,255 169,034,041	169,034,041	172,946,709	176,869,330	180,911,201	185,046,527	189,206,386
Expenses from Continuing Operations												
Employee Benefits & On-Costs	49,504,000	50,939,704	54,872,389	56,457,718	58,484,618	60,582,931	62,461,002	64,397,293	66,393,609	68,584,598	70,847,890	73,185,871
Borrowing Costs	74,000	24,070	53,191	182,158	149,071	111,216	67,525	18,162	8,893	9,708	10,396	10,989
Materials & Contracts	59,229,000	59,249,398	60,829,432	59,401,685	63,136,729	63,808,897	65,369,120	66,968,348	69,457,557	70,287,746	72,009,940	73,775,188
Depreciation & Amortisation	19,866,000	20,442,227	21,215,275	22,170,866	23,078,601	24,024,189	25,009,208	25,946,946	26,742,065	27,876,769	29,036,655	30,266,158
Impairment of receivables	17,000		•	•	•	•	•				1	1
Other Expenses	3,386,000	9,276,431	8,870,633	9,056,916	9,283,340	9,515,423	9,753,309	9,433,645	9,669,487	9,911,224	10,159,004	10,412,979
Net Losses from the Disposal of Assets	4,997,000	•	•	•	•	•	•	•	•		•	•
Revaluation decrement/impairment of IPPE	2,045,000		•	•	•	•	•	•				
Total Expenses from Continuing Operations	139,118,000	139,931,830	145,840,920	147,269,343	154,132,359	158,042,656	162,660,163	166,764,395	172,271,610	176,670,046	182,063,885	187,651,185
Net Operating Result for the Year	19,088,000	5,991,029	9,361,628	12,439,329	8,211,186	7,276,599	6,373,878	6,182,314	4,597,720	4,241,155	2,982,642	1,555,201
Net Operating Result before Grants and Contributions provided for	provided for											
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10 Year Financial Plan for the Years ending 30 June 2032	ie 2032										
BUDGET SUMMARY - GENERAL FUND	Current Year					Project	Projected Years				
Normal Continuance of Services	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
	s	\$	\$	s	s	\$	\$	*	\$	s	
Income from Continuing Operations											
Rates & Annual Charges	102,135,834	108,034,975	110,437,192	113,031,257	115,686,369	118,403,968	121,185,526	124,032,553	126,946,592	129,929,224	132,982,065
User Charges & Fees	14,271,474	14,231,474	14,530,335	14,893,593	15,265,933	15,647,581	16,038,771	16,439,740	16,850,734	17,272,002	17,703,802
Other Revenues	6,543,874	6,784,074	6,926,540	7,099,703	7,277,196	7,459,126	7,645,604	7,836,744	8,032,663	8,233,479	8,439,316
Grants & Contributions provided for Operating Purposes	8,357,903	12,770,694	13,038,879	13,364,850	13,698,972	14,041,446	14,392,482	14,752,294	15,121,102	15,499,129	15,886,608
irants & Contributions provided for Capital Purposes	10,621,715	8,350,000	9,282,453	9,387,014	9,494,190	9,604,044	9,716,646	9,832,062	9,950,363	10,071,622	10,195,913
Interest & Investment Revenue	3,992,059	4,929,651	5,389,132	4,460,381	3,787,181	3,765,726	3,852,727	3,858,110	3,888,975	3,917,278	3,871,795
Fair value increment on investment properties	1	100,000	102,100	104,653	107,269	109,951	112,699	115,517	118,405	121,365	124,399
Total Income from Continuing Operations	145,922,859	155,200,869	159,706,630	162,341,452	165,317,109	169,031,842	172,944,455	176,867,020	180,908,833	185,044,100	189,203,898
Expenses from Continuing Operations											
Employee Benefits & On-Costs	50,939,704	54,872,389	56,457,718	58,484,618	60,582,931	62,461,002	64,397,293	66,393,609	68,584,598	70,847,890	73,185,871
Borrowing Costs	24,070	25,388	15,880	15,880	15,880	15,880	15,880	15,880	15,880	15,880	15,880
Materials & Contracts	59,249,398	60,829,432	59,401,685	63,136,729	63,808,897	65,369,120	66,968,348	69,457,557	70,287,746	72,009,940	73,775,188
Depreciation & Amortisation	20,442,227	21,215,275	22,170,866	23,078,601	24,024,189	25,009,208	25,946,946	26,742,065	27,876,769	29,036,655	30,266,158
Other Expenses	9,276,431	8,870,633	9,056,916	9,283,340	9,515,423	9,753,309	9,433,645	9,669,487	9,911,224	10,159,004	10,412,979
Total Expenses from Continuing Operations	139,931,830	145,813,117	147,103,065	163,999,168	157,947,320	162,608,518	166,762,113	172,278,597	176,676,218	182,069,369	187,656,076
Net Operating Profit /(Loss) for the Year	6,991,029	9,387,752	12,603,565	8,342,284	7,369,789	6,423,324	6,182,342	4,588,423	4,232,615	2,974,730	1,547,822
Capital (Balance Sheet) and Reserve Movements											
Capital Expenditure	(64,955,344)	(65,965,434)	(65,927,757)	(68,951,740)	(24,581,536)	(24,971,547)	(29,553,050)	(40,955,615)	(42,468,854)	(27,576,239)	(28,091,809)
Loan Repayments (External)	(241,970)	(256,532)	1	•	•	•	1			•	
ELE Provisions paid out	(956,069)	(956,069)	(690,069)	(956,069)	(956,069)	(690'956)	(956,069)	(956,069)	(690'956)	(956,069)	(956,069)
Proceeds from Sale of intangible & tangible Assets	1,000,000	1,000,000	1,021,000	1,046,525	1,072,688	1,099,505	1,126,993	1,155,168	1,184,047	1,213,648	1,243,989
Non-cash Expense Contra Income	20,442,227	21,215,275	22,170,866	23,078,601	24,024,189	25,009,208	25,946,946	26,742,065	27,876,769	29,036,655	30,266,158
Net Transfers (to)/from Reserves	39,423,922	37,365,885	34,369,034	37,961,627	(6,535,454)	(6.611,116)	(2,562,112)	8,812,246	9,280,327	(6, 169, 235)	(6,211,275)
Total Capital (Balance Sheet) and Reserve Movements	(5,287,234)	(7,596,875)	(9,322,926)	(7,821,056)	(6,976,183)	(6,430,019)	(5,997,292)	(5,202,205)	(5,083,780)	(4,451,240)	(3,749,005)
Net Result (including Depreciation & Other non-cash items)	703,796	1,790,877	3,280,639	521,228	393,607	(6,695)	185,051	(613,782)	(861,164)	(1,476,510)	(2,201,183)
Add back Depreciation Expense (non-cash)	20,442,227	21,215,275	22,170,866	23,078,601	24,024,189	25,009,208	25,946,946	26,742,065	27,876,769	29,036,655	30,266,158
Less Other Income (non-cash)	(20,442,227)	(21,215,275)	(22,170,866)	(23,078,601)	(24,024,189)	(25,009,208)	(25,946,946)	(26,742,065)	(27,876,769)	(29,036,655)	(30,266,158)
Cash Budget Surplus/(Deficit)	703,795	1,790,877	3,280,639	521.228	393,607	(6.695)	185,051	(613,782)	(851,164)	(1,476,510)	(2.201.183)

There is an average cash budget surplus of \$0.102 million per year.

Commentary on Financial Results – Normal Continuance of Service

The Income Statement and Budget Summary results forecast over the period of this Plan have diminished compared to historic results. The Income Statement result over the 10-year period predicts a deficit for eight out of the ten years and there is an average deficit of (\$3.266) million per year.

9 Based on a cash-funding basis the budget forecast results over the same period result in an average cash-funding surplus of \$102K per year. However, this level of unencumbered cash is insufficient to absorb budget shocks that may result from a natural event requiring Council's response, an urgent need replace failing infrastructure in a given year, the shifting of services from other tiers of government or a desire by Council to expand existing service levels.

The cash-funding result forecast in the budget is better than the income statement result as the income statement result contains an allowance for non-cash depreciation each year as required by accounting standards, which is unavoidable. Comparatively, a cash allocation has not been provided in this result to fund all the requirements identified in Council's revised Asset Management Plans (annual average requirement of \$3.2 million) for asset renewal and other key initiatives that have been identified. It is noted that this results in infrastructure asset ratios in a normal continuance version of the LTFP are below acceptable benchmarks as the condition of Council's assets is expected to decline if sufficient funding is not provided for maintenance and renewal. These results indicate that Council's forecast financial sustainability based on the normal continuance of services is unsatisfactory and action is required to improve the results forecast

Income Statement Commentary

Council's Audited Income Statement result has gradually declined over recent years to a break-even position in 2020/21. Deficits are expected to commence during the period of this Plan:

21/22 (current 22/23	00.00									
	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32
budget)										
(\$4.630M)	\$1.011M	\$3.157M	(\$1.176M)	(\$2.218M)	(\$3.230M)	(\$3.534M)	(\$5.234M)	(\$5.709M)	(\$7.089M)	(\$8.641M)
	et) 30M)	\$1.011M	\$1.011M \$3.157M	\$1.011M						

Since 2016/17 Council's Income Statement result has gradually decline because of internal and external factors, notably a boundary adjustment, a \$1 million increase in the Emergency Services Levy payable to the NSW State Government, a decline in the interest base rate set by the Reserve Bank of Australia from 1.5% to 0.1%, which has significantly reduced returns on Council's investment portfolio. Many of Council's investment holdings are forecast to be expended during the period of this Plan as work on major projects such as Hornsby Park progresses, the majority of which are due to be completed over the

\$4.550M Surplus

\$7.641M Surplus

2018/19

2017/18

2019/20

2020/21

\$0.086M Surplus

\$6.649M Surplus \$8.720M Surplus

2016/17

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ITEM

ATTACHMENT 1 -

A 0.7% rate peg set by IPART in 2022/23 that has resulted in \$1.1 million less income from rates compared to the rate peg of 2.28% that was forecast in the previous version of Council's LTFP. The associated ongoing financial detriment is more than \$11 million over the life of the Plan. Statutory increases in the employee superannuation rate from 10% to 12% by 2026, which has increased expenditure by \$1.2 million per year. A recurrent budget of \$1.4 million from 2024/25 for the recurrent maintenance and operation of Hornsby Park.	The Income Statement deficit currently forecast in 2021/22 of (\$4.630M) is attributable to three one-off items; the cost of the Council election in 2021/22 of \$850K, an early payment of the 2021/22 Financial Assistance Grant in the previous year of \$2.2 million and an unforeseen one-off investigation and monitoring costs at the former landfill site at Foxglove Oval of \$2.3 million. Budget Summary Commentary	It has been a long-standing objective of Council to produce a balanced budget. Historically this has been achieved by freezing non labor expenditure each year including budgets for asset maintenance and renewal. The previous version of the LTFP recommended that Council's Asset Management Plans be updated to provide revised 10-year maintenance and renewal forecasts for inclusion in the Plan. The revised asset management forecasts are not included in this version of the plan. Therefore, the cash result forecast in the budget before asset management requirements is better than the income statement result as the income statement result contains an allowance for non-cash depreciation each year as required by accounting standards. Conversely, a cash allocation has not been provided in the budget for asset renewal and maintenance, which is the equivalent expense:	1 22/23 23/24 24/25 25/26 26/27 27/28 28/29 29/30 30/31 31/32 t) t) t) t) t) t) t) t) t)
 A 0.7% rate peg set t forecast in the previous Statutory increases in A recurrent budget of \$ 	The Income Statement deficit \$850K, an early payment of t monitoring costs at the former I Budget Summary Commentary	It has been a long-standing objective of Cour year including budgets for asset maintenanc updated to provide revised 10-year maintenan The revised asset management forecasts a management requirements is better than the year as required by accounting standards. Co equivalent expense:	Cash budget 21/22 surplus/(deficit) (current budget)

Hornsby Shire Council

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ITEM

ATTACHMENT 1 -

Local Government Performance Indicators Commentary	licators Commentary										
Indicators in this version of the LTFP are forecast as follows:	P are forecast as foll	OWS:									
Indicator	Benchmark	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32
Operating Performance Ratio	>2% (>0% OLG)	0.62%	2.03%	-0.84%	-1.49%	-2.10%	-2.24%	-3.21%	-3.41%	-4.12%	-4.90%
Own Source Operating Revenue	>60%	86.38%	86.01%	85.98%	85.96%	86.00%	86.05%	86.09%	86.13%	86.17%	86.21%
Ratio											
Unrestricted Current Ratio	>1.5	6.44	6.08	5.33	5.54	5.65	5.72	5.58	5.30	5.30	5.08
Debt Service Cover Ratio	>2	53.32	38.04	33.67	34.53	35.86	49.60	433.16	408.99	378.09	352.36
Asset Maintenance Ratio	>100%	72.21%	73.21%	72.02%	74.43%	76.46%	77.74%	77.87%	76.46%	77.74%	77.74%
Asset Renewals Ratio	>100%	87.64%	86.24%	84.85%	83.49%	82.15%	80.84%	79.54%	78.27%	77.01%	75.78%
Infrastructure Backlog Ratio	<2%	1.54%	1.75%	1.96%	2.22%	2.71%	3.11%	3.50%	3.76%	4.14%	4.52%
The Operating Performance Ratio and	and each of the three Infrastructure Asset ratios are below the benchmark in most of the years forecast. The Operating	e Infrastru	ucture Ass	et ratios a	re below t	the benchi	nark in m	ost of the	years fore	ecast. The	0

ratios are less than 100% because this version of the LTFP does not include the additional expenditure requirements identified in Council's Asset

(\$2.201M)

(\$1.477M)

(\$0.851M)

(\$0.614M)

\$0.185M

(\$0.007M)

\$0.394M

\$0.521M

\$3.281M

\$1.791M

\$0.704M

only

Recurrent services

of

Despite no additional funding being provided for asset management in this version of the LTFP deficits are forecast in 5 out of 10 years and the level



Management Plans, which have not been allocated in the budget. Consequently, infrastructure backlog is forecast to increase over the next ten years,

Concret Masting	11 May 2022
General Meeting	11 May 2022

Additional Special Rate Variation (ASRV)

Rates and Charges are a major source of Council's revenue, representing more than 80% of own source revenue. The amount of rates income Council may levy is limited by rate pegging. Rate pegging refers to the process in which the State Government determines annually the allowable increase in rates, which is referred to as the rate peg. This allowable increase is announced annually by the Independent Pricing and Regulatory Tribunal (IPART). The approved rate such as CPI of 2% and a Local Government (State) Award Increase for salaries and wages of 2%, plus an additional 0.5% in employee superannuation pegging increase for 2022/23 was set at 0.7%, which is significantly lower than each of the indices used to forecast expenditure for the 2022/23 financial year payments The previous version of Council's LTFP had forecast a rate peg of 2.28% for 2022/23 that was based on the average historical rate peg. A 2.28% rate increase would have provided in total \$1.6 million in income from rates, which is \$1.1 million more than the increase provided by the 0.7% rate peg of \$500K in 2022/23. The significance of the 0.7% rate peg set by IPART for the 2022/23 budget year will have an ongoing financial detriment estimated at \$11 million over the next 10 years exclusive of the compound effect of further rate peg increases. The Minister for Local Government in response to financial sustainability concerns raised by the Local Government sector from this historical low rate-peg has announced a one-off opportunity for the 2022/23 financial year. This opportunity is an additional special rate variation for 2022/23 which

- Is the lower of 2.5% or what is in a Councils published LTFP (inclusive of the 0.7% rate peg). The rate in Council's LTFP is 2.28%, based on the average historic rate peg from prior years.
 - Can be applied to the 2022/23 rate base then reversed in 2023/24 or can be applied to the 2022/23 rate base and remain as a permanent increase •

Council resolved at the 13 April 2022 General Meeting to apply to IPART for a permanent 2.28% increase. This is considered appropriate as the results Ъ displayed within the previous sections of this report demonstrate that Council does not have financial capacity to fund the continuance of normal services



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Continuance of
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Results -

revised Asset Management Plans are not included within this version of the LTFP and the 2022/23 rate peg is set at 2.28% based on the rate that will apply if The following results are based on forecast income and expenditure based on a continuance of 'normal' operations. The funding requirements of Council's Council's application to IPART for an Additional Special Rate Variation (ASRV) is successful.

Result)	
Statement	
(Financial	
Statement	
Income	

10 Year Financial Plan for the Years ending 30 June 2032	June 2032											
INCOME STATEMENT - GENERAL FUND	Actuals	Current Year					Projected Years	d Years				
Scenario: Rolled over from V12 (20/21 as base)	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
	s	\$	s	\$	s	s	\$	s	\$	s	s	•
Income from Continuing Operations												
Revenue:												
Rates & Annual Charges	100,700,000	102,135,834	109,206,440	111,635,367	114,256,750	116,939,803	119,685,980	122,496,769	125,373,692	128,318,309	131,332,215	134,417,045
User Charges & Fees	14,002,000	14,271,474	14,233,154	14,532,377	14,895,686	15,268,078	15,649,780	16,041,025	16,442,050	16,853,102	17,274,429	17,706,290
Other Revenues	4,857,000	6,543,874	6,784,074	6,926,540	7,099,703	7,277,196	7,459,126	7,645,604	7,836,744	8,032,663	8,233,479	8,439,316
Grants & Contributions provided for Operating Purposes	10,862,000	8,357,903	12,770,694	13,038,879	13,364,850	13,698,972	14,041,446	14,392,482	14,752,294	15,121,102	15,499,129	15,886,608
Grants & Contributions provided for Capital Purposes	19,002,000	10,621,715	8,350,000	9,282,453	9,387,014	9,494,190	9,604,044	9,716,646	9,832,062	9,950,363	10,071,622	10,195,913
Interest & Investment Revenue	5,429,000	3,992,059	4,929,651	5,389,132	4,460,381	3,787,181	3,765,726	3,852,727	3,858,110	3,888,975	3,917,278	3,871,795
Other Income:												
Fair value increment on investment properties	000°26	1	100,000	102,100	104,653	107,269	109,951	112,699	115,517	118,405	121,365	124,399
Reversal of impairment losses on receivables	(1,000)	1	1	1	1	1	1	1	1	1	1	
Rental Income	3,258,000		•	1	1	•	'	1		1	1	'
Total Income from Continuing Operations	158,206,000	145,922,859	156,374,014	160,906,846	163,569,037	166,572,689	170,316,053	174,257,951	178,210,469	182,282,918	186,449,518	190,641,366
Expenses from Continuing Operations												
Employee Benefits & On-Costs	49,504,000	50,939,704	54,872,389	56,457,718	58,484,618	60,582,931	62,461,002	64,397,293	66,393,609	68,584,598	70,847,890	73,185,871
Borrowing Costs	74,000	24,070	53, 191	182,158	149,071	111,216	67,525	18,162	8,893	9,708	10,396	10,989
Materials & Contracts	59,229,000	59,249,398	60,829,432	59,401,685	63,136,729	63,808,897	65,369,120	66,968,348	69,457,557	70,287,746	72,009,940	73,775,188
Depreciation & Amortisation	19,866,000	20,442,227	21,215,275	22,170,866	23,078,601	24,024,189	25,009,208	25,946,946	26,742,065	27,876,769	29,036,655	30,266,158
Impairment of receivables	17,000	1	1	1	1	1	1	1	1	1	1	
Other Expenses	3,386,000	9,276,431	8,870,633	9,056,916	9,283,340	9,515,423	9,753,309	9,433,645	9,669,487	9,911,224	10,159,004	10,412,979
Net Losses from the Disposal of Assets	4,997,000	'	•	'	'	1	'	1	'	1	1	'
Revaluation decrement/impairment of IPPE	2,045,000	1	1	1	1	1	1	1	1	1	1	
Total Expenses from Continuing Operations	139,118,000	139,931,830	145,840,920	147,269,343	154,132,359	158,042,656	162,660,163	166,764,395	172,271,610	176,670,046	182,063,885	187,651,185
Net Operating Result for the Year	19,088,000	5,991,029	10,533,093	13,637,503	9,436,679	8,530,033	7,655,890	7,493,557	5,938,859	5,612,871	4,385,633	2,990,180
Net Operating Result before Grants and Contributions provided for	ded for											
Canital Purnoses	86.000	(4.630.686)	2 183 093	4 355 050	49.664	(964.157)	11 948 1541	12 223 0891	13 893 2031	14 227 AD71	16 285 0801	1057 306 71

L FUND	000 au										
BUDGET SUMMARY - GENERAL FUND base year)	TCNZ AUNI										
base year)	Current Year					Projecte	Projected Years				
	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
	*	\$	\$	\$	\$	S	*	s	\$	\$	\$
Rates & Annual Charges	102,135,834	109,206,440	111,635,367	114,256,750	116,939,803	119,685,980	122,496,769	125,373,692	128,318,309	131,332,215	134,417,045
User Charges & Fees	14,271,474	14,231,474	14,530,335	14,893,593	15,265,933	15,647,581	16,038,771	16,439,740	16,850,734	17,272,002	17,703,802
Other Revenues	6,543,874	6,784,074	6,926,540	7,099,703	7,277,196	7,459,126	7,645,604	7,836,744	8,032,663	8,233,479	8,439,316
Grants & Contributions provided for Operating Purposes	8,357,903	12,770,694	13,038,879	13,364,850	13,698,972	14,041,446	14,392,482	14,752,294	15,121,102	15,499,129	15,886,608
Grants & Contributions provided for Capital Purposes	10,621,715	8,350,000	9,282,453	9,387,014	9,494,190	9,604,044	9,716,646	9,832,062	9,950,363	10,071,622	10,195,913
Interest & Investment Revenue	3,992,059	4,929,651	5,389,132	4,460,381	3,787,181	3,765,726	3,852,727	3,858,110	3,888,975	3,917,278	3,871,795
Fair value increment on investment properties	•	100,000	102,100	104,653	107,269	109,951	112,699	115,517	118,405	121,365	124,399
Total Income from Continuing Operations	145,922,859	156,372,334	160,904,804	163,566,944	166,570,543	170,313,854	174,255,697	178,208,159	182,280,550	186,447,091	190,638,878
Expenses from Continuing Operations											
Employee Benefits & On-Costs	50,939,704	54,872,389	56,457,718	58,484,618	60,582,931	62,461,002	64,397,293	66,393,609	68,584,598	70,847,890	73,185,871
Borrowing Costs	24,070	25,388	15,880	15,880	15,880	15,880	15,880	15,880	15,880	15,880	15,880
Materials & Contracts	59,249,398	60,829,432	59,401,685	63,136,729	63,808,897	65,369,120	66,968,348	69,457,557	70,287,746	72,009,940	73,775,188
Depreciation & Amortisation	20,442,227	21,215,275	22,170,866	23,078,601	24,024,189	25,009,208	25,946,946	26,742,065	27,876,769	29,036,655	30,266,158
Other Expenses	9,276,431	8,870,633	9,056,916	9,283,340	9,515,423	9,753,309	9,433,645	9,669,487	9,911,224	10,159,004	10,412,979
Total Expenses from Continuing Operations	139,931,830	145,813,117	147,103,065	153,999,168	157,947,320	162,608,518	166,762,113	172,278,697	176,676,218	182,069,369	187,656,076
Net Operating Profit /(Loss) for the Year	5,991,029	10,559,217	13,801,739	9,567,777	8,623,223	7,705,336	7,493,585	5,929,562	5,604,332	4,377,722	2,982,802
Capital (Balance Sheet) and Reserve Movements											
Capital Expenditure	(64,955,344)	(65,965,434)	(65,927,757)	(68,951,740)	(24,581,536)	(24,971,547)	(29,553,050)	(40,955,615)	(42,468,854)	(27,576,239)	(28,091,809)
Loan Repayments (External)	(241, 970)	(256,532)	1	1	1	1	1	1	1	1	1
ELE Provisions paid out	(690'956)	(690'956)	(690'956)	(956,069)	(690'956)	(690'996)	(956,069)	(690'956)	(956,069)	(956,069)	(690'996)
Proceeds from Sale of intangible & tangible Assets	1,000,000	1,000,000	1,021,000	1,046,525	1,072,688	1,099,505	1,126,993	1,155,168	1,184,047	1,213,648	1,243,989
Non-cash Expense Contra Income	20,442,227	21,215,275	22,170,866	23,078,601	24,024,189	25,009,208	25,946,946	26,742,065	27,876,769	29,036,655	30,266,158
Net Transfers (to)/from Reserves	39,423,922	37,365,885	34,369,034	37,961,627	(6,535,454)	(6,611,116)	(2,562,112)	8,812,246	9,280,327	(6,169,235)	(6,211,275)
Total Capital (Balance Sheet) and Reserve Movements	(6,287,234)	(7,596,875)	(9,322,926)	(7,821,056)	(6,976,183)	(6,430,019)	(5,997,292)	(5,202,205)	(5,083,780)	(4,451,240)	(3,749,005)
Net Result (including Depreciation & Other non-cash re	703,795	2,962,342	4,478,814	1,746,721	1,647,041	1,275,318	1,496,293	727,357	520,552	(73,518)	(766,203)
Add back Depreciation Expense (non-cash)	20,442,227	21,215,275	22,170,866	23,078,601	24,024,189	25,009,208	25,946,946	26,742,065	27,876,769	29,036,655	30,266,158
Less Other Income (non-cash)	(20,442,227)	(21,215,275)	(22,170,866)	(23,078,601)	(24,024,189)	(25,009,208)	(25,946,946)	(26,742,065)	(27, 876, 769)	(29,036,655)	(30,266,158)
Cash Budget Surplus/(Deficit)	703,795	2,962,342	4,478,814	1,746,721	1,647,041	1,275,318	1,496,293	727,357	520,552	(73,518)	(766,203)

Budget Summary (Liquidity Result)

Hornsby Shire Council

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Indicator	Benchmark	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32
Operating Performance Ratio	>2% (>0% OLG)	1.41%	2.81%	-0.04%	-0.68%	-1.28%	-1.42%	-2.38%	-2.59%	-3.29%	-4.07%
Own Source Operating Revenue	>60%	86.38%	86.01%	85.98%	85.96%	86.00%	86.05%	86.09%	86.13%	86.17%	86.21%
Ratio											
Unrestricted Current Ratio	>1.5	6.44	6.08	5.33	5.54	5.65	5.72	5.58	5.30	5.30	5.08
Debt Service Cover Ratio	>2	53.32	38.04	33.67	34.53	35.86	49.60	433.16	408.99	378.09	352.36
Asset Maintenance Ratio	>100%	72.21%	73.21%	72.02%	74.43%	76.46%	77.74%	77.87%	76.46%	77.74%	77.74%
Asset Renewals Ratio	>100%	87.64%	86.24%	84.85%	83.49%	82.15%	80.84%	79.54%	78.27%	77.01%	75.78%
Infrastructure Backlog Ratio	<2%	1.54%	1.75%	1.96%	2.22%	2.71%	3.11%	3.50%	3.76%	4.14%	4.52%

Local Government Performance Indicators

Results – Normal Continuance of Service & ASRV

The approval of the ASRV of 2.28% by the IPART would improve substantially the Income Statement result. This is most notable in the financial years from 2022/23 to 2025/26 resulting in small operating surpluses. This would provide sufficient time for Council to further assess opportunities and remedial action to attain acceptable financial benchmarks and improve long term financial sustainability

year to an average surplus of \$1.401 million per year. This cash funding surplus provides a level of unencumbered cash considered sufficient to respond to deficit of (\$1.967) million per year compared to in a 0.7% rate peg scenario. Further the cash budget result improves from an average surplus of \$102K per Over the forecasted 10 year period the ASRV would improve the income statement result from an average deficit of (\$3.266) million per year to an average budget shocks that can typically occur.

Whilst the results improve if Council is successfully awarded a 2.28% rate peg in 2022/23 it should be noted that these versions of the LTFP do not include all the funding requirements identified in Council's recently revised Asset Management Plans, which are considered further in the next section

 Road 	Roads, bridges, footpaths, kerb and guttering	paths, kerb and	d guttering							
 Storm 	Stormwater drainage									
 Speci 	alised and non	-specialised bu	uildings includir	Specialised and non-specialised buildings including aquatic centres	es					
 Open 	spaces (largel	y related to Pa	rk assets such	as playing surf	Open spaces (largely related to Park assets such as playing surfaces and equipment, and park furniture)	ment, and park	furniture)			
The process t	The process undertaken by Council Officers has	Council Officer		around produci	centred around producing detailed data based ten-year forecasts for maintenance, renewal and operational	a based ten-ye	ar forecasts for	maintenance,	renewal and o	perational
expenditure.]	expenditure. The asset management plans have	agement plans		ated using the t	been created using the following methodology	dology:				
 Revie 	w of existing d	ata with the ain	n of ensuring d	ata exists for ea	Review of existing data with the aim of ensuring data exists for each individual asset within each class	sset within each	ו class			
 Identii 	Identification of data omissions	omissions								
 The c 	The collection of new data where omissions are present	v data where o	missions are p	resent						
 Indep 	Independent physical asset inspections	al asset inspec		asset class by	for each asset class by qualified experts to test asset data including an independent review of condition	erts to test ass	et data includi	ng an indepen	dent review of	condition
comp	compared to Council's recorded condition levels	's recorded co	ndition levels							
Comn	nunity satisfact	ion surveys to	assess current	service levels (Community satisfaction surveys to assess current service levels compared to desired levels of service	sired levels of s	ervice			
• The c	reation of ten-)	ear expenditur	re forecasts for	each class con	The creation of ten-year expenditure forecasts for each class compared to available budgets	able budgets				
The revised a	The revised asset management plans indicate th	ent plans indic		s an average fu	at there is an average funding gap of \$3.2 million per year over the next ten years:	3.2 million per y	ear over the ne	xt ten years:		
	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
AMP										
funding gap	(\$1.369M)	(\$2.236M)	(\$2.131M)	(\$2.704M)	(\$5.034M)	(\$4.154M)	(\$4.030M)	(\$2.554M)	(\$3.886M)	(\$3.886M)

Hornsby Shire Council

ATTACHMENT 1 - ITEM 5	37			The Asset Management Strategy recommends that funding is provided within this LTFP to meet the requirements identified in the Asset Management Plans.	the same time as this LTFP as part of the Resourcing Strategy.	The revised Asset Management Plans have informed Council's Asset Management Strategy, which is referred to Council to be adopted for public exhibition at	next ten years in the LTFF, noting that construction for many of council s major projects incuruing the largest project, notinsby Fark has already commenced. Therefore, recurrent funding must be provided.	• The cost of providing for recurrent expenditure for new assets that are fully funded from external grants and development contributions over the		 Inflationary cost increases since the plans were last revised The cost of providing for recurrent expenditure for new assets constructed since the plans were last revised
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The following results are based on forecast income and expenditure on the basis of a continuance of 'normal' operations. The funding requirements of

Results – Normal Continuance of Service & Asset Management Requirements

Council's revised Asset Management Plans have also been included. The 2022/23 rate peg is set at 0.7% being the approved rate peg set by IPART.

Income Statement (Financial Statement Result)	ment Kest	Î										
Hornsby Shire Council												
10 Year Financial Plan for the Years ending 30 June 2032	e 2032											
INCOME STATEMENT - GENERAL FUND	Actuals	Current Year					Projected Years	d Years				
Normal Continuance of Services & AMP Funding	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	
	\$	\$	\$	\$	s	\$	4	\$	\$	\$	\$	
Income from Continuing Operations												
Revenue:												
Rates & Annual Charges	100,700,000	102,135,834	108,034,975	110,437,192	113,031,257	115,686,369	118,403,968	121,185,526	124,032,553	126,946,592	129,929,224	÷
User Charges & Fees	14,002,000	14,271,474	14,233,154	14,532,377	14,895,686	15,268,078	15,649,780	16,041,025	16,442,050	16,853,102	17,274,429	
Other Revenues	4,857,000	6,543,874	6,784,074	6,926,540	7,099,703	7,277,196	7,459,126	7,645,604	7,836,744	8,032,663	8,233,479	
Grants & Contributions provided for Operating Purposes	10,862,000	8,357,903	12,770,694	13,038,879	13,364,850	13,698,972	14,041,446	14,392,482	14,752,294	15,121,102	15,499,129	
Grants & Contributions provided for Capital Purposes	19,002,000	10,621,715	8,350,000	9,282,453	9,387,014	9,494,190	9,604,044	9,716,646	9,832,062	9,950,363	10,071,622	
Interest & Investment Revenue	5,429,000	3,992,059	4,929,651	5,389,132	4,460,381	3,787,181	3,765,726	3,852,727	3,858,110	3,888,975	3,917,278	
Other Income:												
Fair value increment on investment properties	97,000	•	100,000	102,100	104,653	107,269	109,951	112,699	115,517	118,405	121,365	
Reversal of impairment losses on receivables	(1,000)	'	'	1	1	1	'	1	1	'	1	
Rental Income	3,258,000	•		1		•	•	1		•	1	
Total Income from Continuing Operations	158,206,000	145,922,859	155,202,549	159,708,672	162,343,545	165,319,255	169,034,041	172,946,709	176,869,330	180,911,201	185,046,527	÷
Expenses from Continuing Operations												
Employee Benefits & On-Costs	49,504,000	50,939,704	54,872,389	56,457,718	58,484,618	60,582,931	62,461,002	64,397,293	66,393,609	68,584,598	70,847,890	
Borrowing Costs	74,000	24,070	53, 191	182,158	149,071	111,216	67,525	18,162	8,893	9,708	10,396	
Materials & Contracts	59,229,000	59,249,398	61,458,500	60,429,147	64,115,942	65,051,409	67,682,288	68,877,148	71,309,378	71,461,332	73,795,592	
Depreciation & Amortisation	19,866,000	20,442,227	21,215,275	22,170,866	23,078,601	24,024,189	25,009,208	25,946,946	26,742,065	27,876,769	29,036,655	
Impairment of receivables	17,000	•			'	•	•	•	'	'		
Other Expenses	3,386,000	9,276,431	8,870,633	9,056,916	9,283,340	9,515,423	9,753,309	9,433,645	9,669,487	9,911,224	10,159,004	
Net Losses from the Disposal of Assets	4,997,000	'	'	1	1		'	1	1	1	1	
Revaluation decrement/impairment of IPPE	2,045,000						•		1			
Total Expenses from Continuing Operations	139,118,000	139,931,830	139,931,830 146,469,988 148,296,805 155,111,572 159,285,168 164,973,331 168,673,195 174,123,432 177,843,632	148,296,805	155,111,572	159,285,168	164,973,331	168,673,195	174,123,432	177,843,632	183,849,537	÷

17,706,290 8,439,316 15,886,608 10,195,913 3,871,795

132,982,065

124,399

189,206,386

2031/32

73,185,871 10,989 75,560,840 30,266,158

10,412,979

(230,451)

189,436,837

183,849,537 1,196,990

177,843,632 3,067,569

174,123,432 2,745,899

159,285,168 6,034,086

155,111,572 7,231,972

148,296,805 11,411,867

146,469,988 8,732,560

139,931,830 5,991,029

Net Operating Result for the Year

19,088,000

4,273,514

4,060,710 164,973,331

382,560 2,129,414 (2,155,042) (3,460,103) (5,543,335) (5,443,132) (7,086,163) (6,882,794) (8,874,633) (10,426,364)

(4,630,686)

Net Operating Result before Grants and Contributions provided for Capital Purposes 86,000

Budget Summary (Liquidity Result)		_									
Hornsby Shire Council 10 Year Financial Plan for the Years ending 30 June 2032	une 2032										
BUDGET SUMMARY - GENERAL FUND	Curre		FUILDOOD	000000	0005106	Projected Years	d Years		00,0000	*CIUCUU	0019000
	\$	\$	\$	\$	\$	\$ 20202	\$	\$	\$	\$	\$
Income from Continuing Operations											
Rates & Annual Charges	102,135,834	108,034,975	110,437,192	113,031,257	115,686,369	118,403,968	121,185,526 46,000,774	124,032,553	126,946,592	129,929,224	132,982,065
Other Revenues	6 543 874	6 784 074	6 926 540	7 000 703	7 277 196	7 459 128	7.645.604	7 836 744	8 032 663	8 233 479	8 439 316
Grants & Contributions provided for Operating Purposes	8,357,903	12.770.694	13,038,879	13.364,850	13.698.972	14,041,446	14,392,482	14.752.294	15,121,102	15,499,129	15.886.608
Grants & Contributions provided for Capital Purposes	10,621,715	8,350,000	9,282,453	9,387,014	9,494,190	9,604,044	9,716,646	9,832,062	9,950,363	10,071,622	10,195,913
Interest & Investment Revenue	3,992,059	4,929,651	5,389,132	4,460,381	3,787,181	3,765,726	3,852,727	3,858,110	3,888,975	3,917,278	3,871,795
Fair value increment on investment properties	1	100,000	102,100	104,653	107,269	109,951	112,699	115,517	118,405	121,365	124,399
Total Income from Continuing Operations	145,922,859	155,200,869	159,706,630	162,341,452	165,317,109	169,031,842	172,944,455	176,867,020	180,908,833	185,044,100	189,203,898
Expenses from Continuing Operations											
Employee Benefits & On-Costs	50.939.704	54.872.389	56.457.718	58.484.618	60.582.931	62.461.002	64.397.293	66.393.609	68.584.598	70.847.890	73.185.871
Borrowing Costs	24.070	25.388	15.880	15.880	15.880	15.880	15.880	15,880	15.880	15.880	15.880
Materials & Contracts	59,249,398	61,458,500	60,429,147	64,115,942	65,051,409	67,682,288	68,877,148	71,309,378	71,461,332	73,795,592	75,560,840
Depreciation & Amortisation	20.442.227	21,215,275	22.170.866	23.078,601	24.024.189	25,009,208	25,946,946	26.742.065	27,876,769	29.036.655	30.266.158
Other Expenses	9,276,431	8,870,633	9,056,916	9,283,340	9,515,423	9,753,309	9,433,645	9,669,487	9,911,224	10,159,004	10,412,979
Total Expenses from Continuing Operations	139,931,830	146,442,185	148,130,527	154,978,381	159,189,832	164,921,686	168,670,913	174,130,418	177,849,804	183,855,021	189,441,728
Net Operating Profit /(Loss) for the Year	6,991,029	8,758,684	11,676,103	7,363,070	6,127,277	4,110,156	4,273,542	2,736,602	3,069,029	1,189,078	(237,830)
Capital (Balance Sheet) and Reserve Movements											
Capital Expenditure	(64,955,344)	(66,705,366)	(67,136,295)	(70,103,526)	(26,043,024)	(27,692,379)	(31,798,250)	(43,133,793)	(43,849,268)	(29,676,587)	(30,192,157)
Loan Repayments (External)	(241,970)	(256,532)				•	1	1	•		
ELE Provisions paid out	(956,069)	(956,069)	(690'956)	(956,069)	(956,069)	(956,069)	(690'956)	(956,069)	(956,069)	(956,069)	(956,069)
Proceeds from Sale of intangible & tangible Assets	1,000,000	1,000,000	1,021,000	1,046,525	1,072,688	1,099,505	1,126,993	1,155,168	1,184,047	1,213,648	1,243,989
Non-cash Expense Contra Income	20,442,227	21,215,275	22,170,866	23,078,601	24,024,189	25,009,208	25,946,946	26,742,065	27,876,769	29,036,655	30,266,158
Net Iransfers (to)/from Reserves	39,423,922	37,365,885	34,369,034	37,961,627	(6,535,454)	(6,611,116)	(2,562,112)	8,812,246	9,280,327	(6,169,235)	(6,211,275)
Total Capital (Balance Sheet) and Reserve Movements	(5,287,234)	(8,336,807)	(10,531,464)	(8,972,842)	(8,437,670)	(9,150,851)	(8,242,491)	(7,380,384)	(6,464,194)	(6,551,588)	(5,849,353)
Net Result (including Depreciation & Other non-cash ite	703,795	421,877	1,044,639	(1,609,772)	(2,310,393)	(5,040,695)	(3,968,949)	(4,643,782)	(3,405,164)	(5,362,510)	(6,087,183)
Add back Depreciation Expense (non-cash)	20,442.227	21,215,275	22,170,966	23.078.601	24.024.189	25.009.208	25,946,946	26,742,065	27.876.769	29,036,655	30,266,158
Less Other Income (non-cash)	(20,442,227)	(21,215,275)	(22, 170, 866)	(23,078,601)	(24, 024, 189)	(25,009,208)	(25,946,946)	(28,742,065)	(27,876,769)	(29,036,655)	(30, 266, 158)
Cash Budget Surplus/(Deficit)	703,795	421,877	1,044,639	(1,609,772)	(2,310,393)	(5,040,695)	(3,968,949)	(4,643,782)	(3,405,164)	(5,362,510)	(6,087,183)

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ATTACHMENT 1 - ITEM 5

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Attachments Page 454

BALANCE SHEET - GENERAL FUND	Actuals	Current Year					Projected Years	d Years				
Normal Continuance of Services & AMP	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
	*	\$	*	s	s	s	\$	*	s	\$	\$	
ASSETS												
Current Assets												
Cash & Cash Equivalents	45.775.000	7,863,959	5,634,686	4,770,581	3.761.385	3.674.243	3.753,503	3.756.095	3,479,239	3,169,914	3.080.487	3,093,868
investments	101,773,000	130,692,832	112,653,598	95,377,648	75,200,924	77,106,075	77,648,597	76,658,316	69,872,651	63,380,930	63,880,444	63,939,545
Receivables	8,355,000	7,715,032	7,832,043	7,825,253	7,776,599	7,982,777	8,138,756	8,302,908	8,410,692	8,526,011	8,718,436	8,911,118
riventories	177,000	187,468	194,484	191,264	202.877	205,854	214,154	217,947	225,626	228,146	233,519	239,107
Contract assots	80,000	39.200	40.023	41.024	42.049	43.101	44.178	45.283	46.415	47.575	48.764	49.983
Other	299.000	349.721	358,962	354.740	374,640	380,622	395.230	399.734	413.328	415.394	428,556	438.866
Total Current Assets	156,459,000	146,848,210	126,713,775	108,560,508	87,358,474	89,372,672	90,194,418	89,380,282	82,447,950	75,765,971	76,390,206	76,672,489
Non-Current Assets												
Investments	149.051.000	120,131,168	103,549,736	87,669,906	69,123,721	70.874.911	71,373,590	70.463.336	64,226,041	58,258,935	58.718.081	58,772,407
Receivables	1,524,000	1,068,929	1,116,076	1,140,005	1,167,891	1,196,460	1,225,729	1,255,716	1,286,437	1,317,911	1,350,156	1,383,191
Contract assets	•	40,800	41,657	42,698	43,766	44,860	45,981	47,131	48,309	49,517	50,755	52,024
Infrastructure, Property, Plant & Equipment	1,602,189,000	1,645,817,896	1,690,759,707	1,735,130,606	1,781,538,391	1,782,917,006	1,784,936,403	1,790,011,537	1,805,328,801	1,820,223,055	1,819,759,204	1,818,576,618
Investment Property	29,080,000	29,080,000	29,180,000	29,282,100	29,386,753	29,494,021	29,603,972	29,716,671	29,832,188	29,950,593	30,071,957	30,196,356
Intangible Assets	1,199,000	1,083,221	963,221	953,217	940,875	926,051	908,590	888,333	865,111	838,748	809,059	775,849
Right of use assets	786,000	786,000	2,405,347	1,988,881	1,571,838	1,154,194	735,924	405,358	403,245	380,559	358,555	315,987
Total Non-Current Assets	1,783,829,000	1,798,008,014	1,828,015,744	1,856,207,413	1,883,773,234	1,886,607,504	1,888,830,190	-	1,901,990,132	1,911,019,317	1,911,117,767	1,910,072,431
FOTAL ASSETS	1,940,288,000	1,944,856,224	1,954,729,520	1,964,767,921	1,971,131,708	1,975,980,175	1,979,024,608	1,982,168,363	1,984,438,082	1,986,785,288	1,987,507,974	1,986,744,919
LIABILITIES												
Current Liabilities												
Payables	11,527,000	11,315,161	11,737,721	11,728,291	12,266,564	12,503,692	12,927,032	13,128,726	13,535,959	13,699,893	14,110,119	14,461,776
Contract liabilities	1,931,000	1,664,921	1,746,345	1,812,264	1,852,646	1,894,036	1,936,462	1,979,948	2,024,522	2,070,210	2,117,040	2,165,041
ease liabilities	438,000	105,783	485,784	502,755	520,351	538,564	431,775	40,514	44,227	47,359	50,062	52,453
Borrowings	242,000	257,030	1	1	1	1	1	1	1	1	1	1
Provisions	17,146,000	16,619,240	15,811,604	15,003,968	14,196,333	13,388,697	12,581,061	11,773,425	10,965,789	10,158,154	9,350,518	8,542,882
fotal Current Liabilities	31,284,000	29,962,135	29,781,453	29,047,278	28,835,893	28,324,989	27,876,330	26,922,614	26,570,498	25,975,616	25,627,738	25,222,151
Non-Current Liabilities												
Contract liabilities	222,000	475,152	479,719	491,617	503,600	515,883	528,473	541,378	554,605	568, 163	582,080	596,304
Lease liabilities	358,000	690,217	2,155,500	1,652,745	1,132,394	593,830	162,055	121,541	132,683	142,077	150,187	157,360
Borrowings	257,000	•	1	1	1	1	1	1	1	1	1	'
Provisions	4,430,000	4,000,691	3,852,258	3,703,825	3,555,391	3,406,958	3,258,525	3,110,092	2,961,659	2,813,225	2,664,792	2,516,359
fotal Non-Current Liabilities	5,267,000	5,166,060	6,487,477	5,848,187	5,191,386	4,516,671	3,949,053	3,773,010	3,648,946	3,523,465	3,397,039	3,270,023
TOTAL LIABILITES	36,551,000	35,128,195	36,268,930	34,895,465	34,027,279	32,841,660	31,825,383	30,695,624	30,219,444	29,499,081	29,024,777	28,492,174
Net Assets	1,903,737,000	1,909,728,029	1,918,460,589	1,929,872,456	1,937,104,429	1,943,138,515	1,947,199,225	1,951,472,739	1,954,218,638	1,957,286,207	1,958,483,196	1,958,252,745
EQUITY												
Retained Earnings	1,277,261,000	1,283,252,029	1,291,984,589	1,303,396,456	1,310,628,429	1,316,682,515	1,320,723,225	1,324,996,739	1,327,742,638	1,330,810,207	1,332,007,196	1,331,776,745
Revaluation Reserves	626,108,000	626,108,000	626,108,000	626,108,000	626,108,000	626,108,000	626,108,000	626,108,000	626,108,000	626,108,000	626,108,000	626,108,000
Other Reserves	368,000	368,000	368,000	368,000	368,000	368,000	368,000	368,000	368,000	368,000	368,000	368,000
Council Equity Interest	1,903,737,000	1.909.728.029	1,918,460,589	1,929,872,456	1,937,104,429	1.943,138,515	1.947,199,225	1.951.472.739	1.954.218.638	1,957,286,207	1,958,483,196	1,958,252,745
	000./5/.508.1	1.909./28.029	222 400 585 L	0C4.2/8/828.L	1,35/,104,429	1,343,138,515	C77"REL'148"L	801,214, LOR. L	1.904,218,038	107 087 JCE L	1.908,483,190	04/ 792 906 L

<u>Balance Sheet (Financial Statements)</u>

Hornsby Shire Council

General Meeting 11 May 2022

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CASH FLOW STATEMENT - GENERAL FUND	Actuals	Current Year					Projected Years	1 Years				
Normal Continuance of Services & AMP	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
	\$	\$	\$	\$	\$	s	\$	\$	s	s	\$	
Cash Flows from Operating Activities												
Date 8. Annual Channe	100 821 000	100 ADA 7AB	107 058 204	110 ADS 158	112 006 862	115 BED 081	ACT 735 011	121 140 421	172 004 505	138 007 730	120 000 447	122 041 352
user Charnes & Fees	14 556 000	14 260 521	14 229 851	14 555 019	14 923 596	15 296 685	15 679 103	16 071 080	16 472 857	16 884 679	17 306 796	17 739 466
Investment & Interest Revenue Received	4.158.000	3.581.105	5.107.627	5.565.838	4 666.427	3 762 260	3.754.965	3.857.851	3 923 750	3.951.349	3 906 900	3.865.641
Grants & Contributions	24.728.000	19,934,230	21,168,820	22.348.319	22.761.542	23,203,081	23,655,658	24,119,549	24,595,038	25.082.414	25,581,974	26.094.024
Bonds & Deposits Received	22,000	1	1	1	1	1	•	1	1		1	
Other	16.481.000	7,122,271	6,611,208	6,811,691	6.984,178	7,158,783	7,337,753	7,521,196	7,709,226	7,901,957	8,099,506	8,301,994
Payments:												
Employee Benefits & On-Costs	(48,637,000)	(52,245,683)	(55,731,994)	(57,383,605)	(59,400,767)	(61,497,843)	(63,374,638)	(66,309,614)	(67,304,573)	(69,491,164)	(71,752,822)	(74,089,115)
Materials & Contracts	(66,930,000)	(58,874,294)	(61,307,935)	(60,497,941)	(63,788,275)	(64,952,396)	(67,441,526)	(68,804,155)	(71,085,283)	(71,426,625)	(73,578,568)	(75,390,645)
Borrowing Costs	(71,000)	(26,540)	(53,721)	(182,158)	(149,071)	(111,216)	(67,525)	(18,162)	(8,893)	(9,708)	(10,396)	(10,989)
Other	(3,794,000)	(9,960,082)	(8,761,920)	(9,041,124)	(9,166,642)	(9,450,439)	(9,659,618)	(9,381,089)	(9,577,392)	(9,859,334)	(10,063,315)	(10,326,690)
Net Cash provided (or used in) Operating Activities	41,134,000	26,286,273	29,218,240	32,581,194	29,827,651	29,059,896	28,251,898	29,205,089	28,719,324	29,941,297	29,379,531	29,125,037
Cash Flows from Investing Activities												
Receipts:												
Sale of Investment Securities	126,000,000	1	34,620,666	33,155,780	38,722,909	1	•	1,900,535	13,022,960	12,458,826	1	
Sale of Infrastructure, Property, Plant & Equipment	1,071,000	1,000,000	1,000,000	1,021,000	1,046,525	1,072,688	1,099,505	1,126,993	1,155,168	1,184,047	1,213,648	1,243,969
r aynenus. Durchaas af Isuachaast Cosurilias	1000 212 4217					VUNC 555 C/	14 044 2047				1050 6507	201 0111
	(134,310,000)	'	'	'	'	(240,000,0)	(107'140'1)	•	•	•	(208,00U)	(1134/611)
Purchase of Investment Property	(3,346,000)		-	-				-	-	-	-	
Purchase of Infrastructure, Property, Plant & Equipment Dischare of Infrastructure, Accele	(34,641,000)	(64,905,344)	(aac'an/'aa)	(61,021,295)	(100,000,00)	(20, 922, 202)	(31,508,536)	(31,5/1,312)	(43,003,082)	(43,/15,904)	(29,539,888)	(060,260,06)
	(mm/s1)			(000/011)	(610/11)	(220'02L)	(200,021)	(005'071)	(211 NO1)	(000,001)	(660'001)	11/041
Net Cash provided (or used in) investing Activities	(45,447,000)	(64,900,344)	(31,084,700)	(32,959,515)	(201,354,082)	(28,626,677)	(21,634,074)	(28,110,122)	(000'006'82)	(30,206,395)	(29,421,599)	(29,061,594)
Cash Flows from Financing Activities												
Repayment of Borrowings & Advances	(366,000)	(241,970)	(257,030)	1	1	1	•	1	1	1	1	
Repayment of lease liabilities (principal repayments)	(220,000)	1	(105,783)	(485,784)	(502,755)	(520,351)	(538,564)	(431,775)	(40,514)	(44,227)	(47,359)	(50,062)
Net Cash Flow provided (used in) Financing Activities	(586,000)	(241,970)	(362,813)	(485,784)	(502,755)	(520,351)	(538,564)	(431,775)	(40,514)	(44,227)	(47,359)	(50,082)
Net Increase/(Decrease) in Cash & Cash Equivalents	(4,899,000)	(37,911,041)	(2,229,273)	(864,105)	(1,009,195)	(87,142)	79,260	2,592	(276,855)	(309,325)	(89,427)	13,381
plus: Cash & Cash Equivalents - beginning of year	50,674,000	45,775,000	7,863,959	5,634,686	4,770,581	3,761,385	3,674,243	3,753,503	3,756,095	3,479,239	3,169,914	3,090,487
Cash & Cash Equivalents - end of the year	45,775,000	7,863,959	5,634,686	4,770,581	3,761,385	3,674,243	3,753,503	3,756,095	3,479,239	3,169,914	3,080,487	3,093,868
Cash & Cash Equivalents - end of the year	45,775,000	7,863,959	5,634,686	4,770,581	3,761,385	3,674,243	3,753,503	3,756,095	3,479,239	3,169,914	3,080,487	3,093,868
Investments - end of the year	250,824,000	250,824,000	216,203,334	183,047,554	144,324,645	147,980,987	149,022,187	147,121,652	134,098,692	121,639,865	122,598,525	122,711,952
Cash, Cash Equivalents & Investments - end of the year	296,599,000	258,687,959	221,838,020	187,818,135	148,086,030	151,655,230	152,775,690	150,877,747	137,677,931	124,809,780	125,679,012	125,805,820
Representing:												
- External Restrictions	195,541,000	160,611,578	123,215,506	93,405,562	59,550,766	66,691,986	73,959,025	77,228,471	69,176,255	60,709,973	67,748,617	74,886,051
- Internal Restrictions	82,223,000	77,728,499	77,758,686	73,199,596	69,092,765	68,487,000	67,831,078	67,123,744	66,363,713	65,549,668	64,680,259	63,754,101
- Unrestricted	18,835,000	20,347,881	20,863,827	21,212,976	19,442,499	16,476,243	10,985,587	6,525,532	2,037,963	(1,449,862)	(6,749,864)	(12,834,331)

ITEM 41 ATTACHMENT 1 -

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Indicator	Benchmark	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32
Operating Performance Ratio	>2% (>0% OLG)	0.19%	1.35%	-1.48%	-2.29%	-3.55%	-3.41%	-4.31%	-4.10%	-5.14%	-5.90%
Own Source Operating Revenue	>60%	86.38%	86.01%	85.98%	85.96%	86.00%	86.05%	86.09%	86.13%	86.17%	86.21%
Ratio											
Unrestricted Current Ratio	>1.5	6.34	5.84	5.13	5.17	4.79	4.60	4.24	3.99	3.58	3.14
Debt Service Cover Ratio	>2	51.80	36.50	32.17	32.57	32.05	45.36	395.68	387.23	347.18	323.11
Asset Maintenance Ratio	>100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Asset Renewals Ratio	>100%	141%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Infrastructure Backlog Ratio	<2%	0.63%	0.63%	0.64%	0.64%	0.64%	0.64%	0.64%	0.64%	0.65%	0.65%

Local Government Performance Indicators

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General Meeting 11 May 2022

consider	ance requir red Council	'ements in C	ouncil's revi: LTFP that f	sed Asset N orecasts th	maintenance requirements in Council's revised Asset Management Plans based on a 2022/23 rate peg increase of 0.7%. This version of the LTFP is considered Council's base case LTFP that forecasts the minimum requirements for Council to continue to operate into the future and address core asset	Plans based	on a 2022/23 or Council to	rate peg inc continue to c	rease of 0.7% perate into tl	6. This versione future and	n of the LTFI address cor	o is e asset
infrastru	infrastructure requirements.	rements.										
The Incc after the	ome Statem	The Income Statement result over the 10 year period also predicts after the inclusion of additional expenditure for asset maintenance	/er the 10 y∈ ∋xpenditure	ear period a for asset m	The Income Statement result over the 10 year period also predicts a deficit in eight out of ten years and there is an average deficit of (\$4.736) million per year after the inclusion of additional expenditure for asset maintenance.	a deficit in eig	ht out of ten y	years and the	ere is an ave	age deficit o	f (\$4.736) mi	llion per yea
Net Ope	rating Resu	Net Operating Result before Capital Items	pital Items									
		21/22	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32
		(current budget)										
Recurrent	nt											
services and	and	(\$4.630M)	\$0.383M	\$2.129M	(\$2.155M)	(\$2.155M) (\$3.460M)	(\$5.543M)	(\$5.543M)	(\$7.086M)	(\$6.883M)	(\$8.875M)	(\$10.426M)
asset												
management	ment											
The bud	get result o	ver the 10 y	rear period p	predicts a d	The budget result over the 10 year period predicts a deficit in eight out of ten years and there is an average deficit of (\$3.096) million per year. this level of	t out of ten y	ears and ther	e is an aver	age deficit of	(\$3.096) mil	ion per year	this level o
unencur	nbered cas	unencumbered cash is insufficient to absorb	ent to absort		budget shocks that may occur:	y occur:						
Cash	budget		22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32
		(current										

Hornsby Shire Council

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ITEM

ATTACHMENT 1 -

General Meeting 11 May 2022

			(\$1.610M)	
			\$0.423M \$1.045M (\$1.610M	
			\$0.423M	
	budget)		\$0.704M	
	surplus/(deficit)	Recurrent services	and asset	management
al Meeting	11	Ma	ay 2	202

The Balance Sheet result over the 10 year period maintains equity, liabilities and non-current assets within acceptable levels. The level of cash and cash equivalents will decrease from existing levels. This is a direct result of reduced operating capacity forecasted over the period of the Plan

applicable benchmarks as this version of the LTFP includes the funding required to maintain and renew assets to a satisfactory standard therefore assets The Operating Performance Ratio is below 2% in each year forecast and is lower than the acceptable threshold. Infrastructure ratios are at or above the would be maintained to a satisfactory condition. While the applicable infrastructure ratios meet benchmarks it is clear from the forecasted Income Statement and Cash Budget Results that over the forecasted period there is insufficient operating capacity to fund asset management requirements. The drawn down on cash reserves while possible would be considered not to be fiscally responsible The Cash Flow Statement forecasts a decrease in Council's cash and investment balance at the end of each financial year due to the points raised above in decline in available liquidity as forecast budget deficits require funding from investment and cash reserves. In this regard it is noted that Council is forecast to have other internal restricted asset balances throughout the life of the Plan. However, based on the forecast there would be a requirement for Council to respect to annual operating surpluses. Council's unrestricted cash balance is forecast to have been expended by 30 June 2030 because of the gradual repurpose these internal reserves to unrestricted cash during the period of the Plan to fund general operations. This strategy is considered unsustainable, and action is required to increase Council's operating capacity within acceptable levels as discussed within the Action to Improve Future Direction section of this report.

These results indicate that Council's forecast financial sustainability is unsatisfactory, and action is required to improve the results forecast.

(\$6.087M)

(\$5.363M)

(\$3.405M)

(\$4.644M)

(\$3.969M)

(\$5.041M)

(\$2.310M)

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Management
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Continuance of
- Normal
Results –

Council's revised Asset Management Plans have also been included within this version of the LTFP. The 2022/23 rate peg is set at 2.28% being the rate The following results are based on forecast income and expenditure on the basis of a continuance of 'normal" operations. The funding requirements of sought in Council's application to IPART.

Income Statement (Financial Stater	ment Result)	ult)										
Hornsby Shire Council												
for the Years ending 30 Jui	ne 2032											
INCOME STATEMENT - GENERAL FUND	Actuals	Current Year					Projecte	Projected Years				
2.28% Rate Peg 2022/23	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
Normal Continuance of Services & AMP Funding	s	S	\$	\$	\$	S	s	S	s	\$	\$	\$
Income from Continuing Operations												
Revenue:												
Rates & Annual Charges	100,700,000	102,135,834	109,206,440	111,635,367	114,256,750	116,939,803	119,685,980	122,496,769	125,373,692	128,318,309	131,332,215	134,417,045
User Charges & Fees	14,002,000	14,271,474	14,233,154	14,532,377	14,895,686	15,268,078	15,649,780	16,041,025	16,442,050	16,853,102	17,274,429	17,706,290
Other Revenues	4,857,000	6,543,874	6,784,074	6,926,540	7,099,703	7,277,196	7,459,126	7,645,604	7,836,744	8,032,663	8,233,479	8,439,316
Grants & Contributions provided for Operating Purposes	10,862,000	8,357,903	12,770,694	13,038,879	13,364,850	13,698,972	14,041,446	14,392,482	14,752,294	15,121,102	15,499,129	15,886,608
Grants & Contributions provided for Capital Purposes	19,002,000	10,621,715	8,350,000	9.282,453	9,387,014	9,494,190	9,604,044	9,716,646	9,832,062	9,950,363	10,071,622	10,195,913
Interest & Investment Revenue	5,429,000	3,992,059	4,929,651	5,389,132	4,460,381	3,787,181	3,765,726	3,852,727	3,858,110	3,888,975	3,917,278	3,871,795
Other Income:												
Fair value increment on investment properties	97,000	•	100,000	102,100	104,653	107,269	109,951	112,699	115,517	118,405	121,365	124,399
Reversal of impairment losses on receivables	(1,000)	•	•	•	•	•	•	•	•	•	•	•
Rental Income	3,258,000	•	•	•	•	•	•	•	•	•	1	•
Total Income from Continuing Operations	158,206,000	145,922,859	156,374,014	160,906,846	163,569,037	166,572,689	170,316,053	174,257,951	170,316,053 174,257,951 178,210,469 182,282,918	182,282,918	186,449,518	190,641,366
Expenses from Continuing Operations												
Employee Benefits & On-Costs	49,504,000	50,939,704	54,872,389	56,457,718	58,484,618	60,582,931	62,461,002	64,397,293	66,393,609	68,584,598	70,847,890	73,185,871
Borrowing Costs	74,000	24,070	53,191	182,158	149,071	111,216	67,525	18,162	8,893	9,708	10,396	10,989
Materials & Contracts	59,229,000	59,249,398	61,458,500	60,429,147	64,115,942	65,051,409	67,682,288	68,877,148	71,309,378	71,461,332	73,795,592	75,560,840
Depreciation & Amortisation	19,866,000	20,442,227	21,215,275	22,170,866	23,078,601	24,024,189	25,009,208	25,946,946	26,742,065	27,876,769	29,036,655	30,266,158
Other Expenses	3,386,000	9,276,431	8,870,633	9,056,916	9,283,340	9,515,423	9,753,309	9,433,645	9,669,487	9,911,224	10,159,004	10,412,979
Net Losses from the Disposal of Assets	4,997,000	•	•	•	•	•	•	•	•	•	•	•
Revaluation decrement/impairment of IPPE	2,045,000	•	•	'	•	•	'	'	•	•	'	•
Total Expenses from Continuing Operations	139,118,000	139,931,830	146,469,988	148,296,805	155,111,572	159,285,168	164,973,331	168,673,195	174,123,432	177,843,632	183,849,537	189,436,837
Operating Result from Continuing Operations	19,088,000	5,991,029	9,904,025	12,610,041	8,457,465	7,287,520	5,342,722	5,584,756	4,087,037	4,439,286	2,599,981	1,204,529
Net Operating Result for the Year	19,088,000	5,991,029	9,904,025	12,610,041	8,457,465	7,287,520	5,342,722	5,584,756	4,087,037	4,439,286	2,599,981	1,204,529
Net Operating Result before Grants and Contributions provided for Capital Purposes 86,000	s provided for 86,000	(4,630,686)	1,554,025	3,327,588	(929,549)	(2,206,669)	(4,261,322)	(4,131,889)	(5,745,024)	(5,511,078)	(7,471,641)	(8,991,384)

10 Year Financial Plan for the Years ending 30 June 2032	2032										
BUDGET SUMMARY - GENERAL FUND	Current Year					Projecte	Projected Years				
2.28% Rate Peg 2022/23	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
Normal Continuance of Services & AMP Funding	s	\$	s	s	s	\$	\$	\$	\$	\$	**
Income from Continuing Operations											
Rates & Annual Charges	102,135,834	109,206,440	111,635,367	114,256,750	116,939,803	119,685,980	122,496,769	125,373,692	128,318,309	131,332,215	134,417,045
User Charges & Fees	14,271,474	14,231,474	14,530,335	14,893,593	15,265,933	15,647,581	16,038,771	16,439,740	16,850,734	17,272,002	17,703,802
Other Revenues	6,543,874	6,784,074	6,926,540	7,099,703	7,277,196	7,459,126	7,645,604	7,836,744	8,032,663	8,233,479	8,439,316
Grants & Contributions provided for Operating Purposes	8,357,903	12,770,694	13,038,879	13,364,850	13,698,972	14,041,446	14,392,482	14,752,294	15,121,102	15,499,129	15,886,608
Grants & Contributions provided for Capital Purposes	10,621,715	8,350,000	9,282,453	9,387,014	9,494,190	9,604,044	9,716,646	9,832,062	9,950,363	10,071,622	10, 195, 913
Interest & Investment Revenue	3,992,059	4,929,651	5,389,132	4,460,381	3,787,181	3,765,726	3,852,727	3,858,110	3,888,975	3,917,278	3,871,795
Fair value increment on investment properties	1	100,000	102,100	104,653	107,269	109,951	112,699	115,517	118,405	121,365	124,399
Total Income from Continuing Operations	145,922,859	156,372,334	160,904,804	163,566,944	166,570,543	170,313,854	174,255,697	178,208,159	182,280,550	186,447,091	190,638,878
Expenses from Continuing Operations											
Employee Benefits & On-Costs	50.939,704	54,872,389	56.457.718	58,484,618	60.582,931	62,461,002	64,397,293	66,393,609	68,584,598	70.847.890	73,185,871
Borrowing Costs	24.070	25.388	15.880	15,880	15,880	15,880	15,880	15,880	15,880	15,880	15,880
Materials & Contracts	59,249,398	61,458,500	60,429,147	64,115,942	65,051,409	67,682,288	68,877,148	71,309,378	71,461,332	73,795,592	75,560,840
Depreciation & Amortisation	20.442.227	21 215 275	22,170,866	23.078.601	24.024.189	25.009.208	25,946,946	26.742.065	27,876,769	29,036,655	30,266,158
Other Expenses	9,276,431	8,870,633	9,056,916	9,283,340	9,515,423	9,753,309	9,433,645	9,669,487	9,911,224	10,159,004	10,412,979
Total Expenses from Continuing Operations	139,931,830	146,442,185	148,130,527	154,978,381	159,189,832	164,921,686	168,670,913	174,130,418	177,849,804	183,855,021	189,441,728
Net Operating Profit /(Loss) for the Year	5,991,029	9,930,149	12,774,277	8,588,563	7,380,711	5,392,168	5,584,784	4,077,740	4,430,746	2,592,070	1,197,150
Capital (Balance Sheet) and Reserve Movements											
Capital Expenditure	(64,955,344)	(66,705,366)	(67,136,295)	(70,103,526)	(26,043,024)	(27,692,379)	(31,798,250)	(43, 133, 793)	(43,849,268)	(29,676,587)	(30, 192, 157)
Loan Repayments (External)	(241,970)	(256,532)	1	1	1	1				1	1
ELE Provisions paid out	(956,069)	(956,069)	(956,069)	(956,069)	(956,069)	(956,069)	(956,069)	(956,069)	(956,069)	(956,069)	(956,069)
Proceeds from Sale of intangible & tangible Assets	1,000,000	1,000,000	1,021,000	1,046,525	1,072,688	1,099,505	1,126,993	1,155,168	1,184,047	1,213,648	1,243,989
Non-cash Expense Contra Income	20,442,227	21,215,275	22,170,866	23,078,601	24,024,189	25,009,208	25,946,946	26,742,065	27,876,769	29,036,655	30,266,158
Net Transfers (to)/from Reserves	39,423,922	37,365,885	34,369,034	37,961,627	(6,535,454)	(6,611,116)	(2,562,112)	8,812,246	9,280,327	(6,169,235)	(6,211,275)
Total Capital (Balance Sheet) and Reserve Movements	(6,287,234)	(8,336,807)	(10,531,464)	(8,972,842)	(8,437,670)	(9,150,851)	(8,242,491)	(7,380,384)	(6,464,194)	(6,551,588)	(5,849,353)
Net Result (including Depreciation & Other non-cash Items)	703,795	1,593,342	2,242,814	(384,279)	(1,056,959)	(3,758,682)	(2,657,707)	(3,302,643)	(2,033,448)	(3,959,518)	(4,652,203)
Add harb Donconistion Evolues (non nach)	700 011 00	01 01E 07E	22 170 ORE	23 070 BU1	04 004 100	000 000 20	75 046 046	06 740 DEE	07 076 760	20 036 655	30 JGE 1E0
Aud back Deprediation Expense (non-cash) Less Other Income (non-cash)	(20,442,227)	(21,215,275)	(22,170,866)	(23,078,601)	(24,024,189)	(25,009,208)	(25,946,946)	(26,742,065)	(27,876,769)	(29,036,655)	(30,266,158]
Cash Budget Surplus/(Deficit)	703.795	1.693.342	2.242.814	(384.279)	(1.056.959)	(3.758.682)	(2.657.707)	(3.302.643)	(2.033.448)	(3.959.518)	(4.652.203)

Budget Summary (Liquidity Result)

Hornsby Shire Council

2.28% Rate Peg 2022/23 2022/23 Normal Continuance of Services & AMP Funding \$ A Stantal Continuance of Services & AMP Funding \$ Current Assets 5,663,832 Cash & Cash Equivalents 113,226,310 Investments 114,464 Investments 121,356,458 Investments 1121,203,98 Interested 1121,205,458 Interested 1121,205,458 Interested 1121,205,458 Interested 1121,205,458 Interested 11,735 Interested <	2023/24 \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$ \$	2024/25 3, 64 (175) 3, 65 (175) 3, 65 (175) 3, 65 (175) 3, 77 (17, 007, 594) 7, 95 (175) 3, 77 (17, 007, 594) 3, 77 (17, 007) 5, 96 (175) 2, 20 (175)	2025/26 \$	2026/27 \$	2027/28	2028/29	2029/30 \$	2030/31	2031/32
Jance of Services & AMP Funding 5 alents 5,663,802 alents 5,663,802 113,206,310 7,801,807 194,464 440,005 191,205,310 1127,356,408 195,817 1100,006,358 1127,305,428 41,657 efs 11,100,366,310 onty, Plant & Equipment 1,690,730 of Y, Plant & Equipment 1,690,730 of Y, Plant & Equipment 1,690,730 of Y, Plant & Equipment 1,690,731 At 657 2,405,317 At 657 2,405,317 At 657 2,405,317	1,7		\$	s	s	\$	•	•	
alonts 5,663,832 alonts 5,663,832 113,266,310 7,801,887 113,266,310 7,801,887 113,266,310 7,801,887 113,286,366 40,023 568,962 41,657 any 112,335,458 41,657 any 112,335,458 41,657 any 21,120,306 21,120,306 41,657 21,120,306 22,100,307 22,100,307 22,100,307 23,100,307 24,105 24	1,7						F	\$	\$
raientis E, 663, 802 raientis 5, 663, 802 113, 263, 807 113, 263, 607 113, 263, 617 113, 263, 617 114, 26	1,7								
alents 5 663 822 alents 5 663 822 113,226 310 7 881 887 194,464 194,464 112,356 458 45 112,356 458 112,356,458 112,356,458 112,356,458 112,356,458 112,356,458 113,256,676 1158,5976 1158,5976 1159	1,1								
113 266 310 7,801 810 7,801 810 149,463 40,023 358 922 410,025 358 922 358 41,057 1,120 366 363 erty, Plant & Equipment 1,690,739 104,085 368 erty, Plant & Equipment 1,690,739 105,356 105 A Seets 1,828,556 2405 341 A Seets 1,828,556 11,588 341	1,7			3,907,908	3,943,619	3,700,637	3,425,958	3,371,967	3,421,592
7,801 887 7,801 887 194,464 194,464 194,464 104,065 358 127,355,458 665 358 1120,356 675 807 675 807 675 807 787 807 788 955 616 793 245 793 255 416 704 965 358 1120,356 416 7120,356 416 7120,356 416 7120,356 416 7120,356 416 7120,356 416 7120,356 616 7120,356 616 7120,356 616 7120,356 616 7120,356 616 7120,356 616 7120,356 616 7120,356 616 7120,356 616 7120,356 616 7120,356 616 7120,356 616 7120,356 616 7120,356 616 7156 516 617 7156 516 617 7156 516 617 7156 516 617	1,7		79,545,695 80	80,735,597	80,407,457	74,299,030	68,499,988	69,707,973	70,491,700
ets 194,464 ets 194,464 40,023 40,023 45 127,355,458 65 127,355,458 66 1,120,366 67 1,120,366 68 1,120,366 69 1,120,366 63 1,120,366 63 1,120,366 63 21,600,000 7466 24166,347 74665 24165,347 75665 263,271 75665 7416,347 74665 74165,347 74665 7416,347 74665 7465,347	1,7		8,013,480	8,196,789	8,368,438	8,483,889	8,607,051	8,807,497	9,008,384
40,023 ets 127,355,458 45 127,355,458 45 127,355,458 66,05,358 104,065,358 erby, Plant & Equipment 1,690,759 erby, Plant & Equipment 2,610,377 Assets 1,828,556,616 Assets 1,828,556,616	1,7		205,854	214,154	217,947	225,626	226,146	233,519	239,107
ets 358.962 45 12/,356,458 45 104,065,359 1120,366,358 41,657 41,5577 41,5577 41,5577 41,55777 41,5577777777777777777777777777777777777	1,7		43,101	44,178	45,283	46,415	47,575	48,764	49,983
ets 127,355,458 fs 104,065,358 1,120,386 1,120,386 1,120,386 1,120,386 1,120,386 1,120,386 1,120,386 1,120,386 1,120,387 1,128,1555,676 1,158,1555,6756,676 1,158,1555,676 1,158,1556,676 1,155,1571,155,157 1,155,157 1,155,1571,155	1,7		380,622	395,230	399,734	413,328	415,394	428,556	438,866
45 104,065,358 1,120,366 1,120,366 anty, Plant & Equipment 1,690,759,707 29,160,000 29,160,000 433,257 2405,347 Assets 1,955,617 Assets 1,955,617	1,7	89,299,047 91,9		93,493,857	93,382,476	87,168,924	81,222,112	82,598,277	83,649,633
104,005,358 1,120,308 1,120,308 1,120,308 1,120,305 1,120,507 1,120,506 1,120,507 1,120,506 1,150,507 1,505,656 1,505,657 1,505,657 1,505,657 1,505,657 1,505,657 1,505,657 1,505,657 1,505,657 1,505,657 1,505,5577 1,505,5577 1,505,5577 1,505,5577 1,505,5577 1,505,5577 1,505,55	1,7								
1,120.386 41,657 41,657 41,657 20,1590,007 20,1590,007 20,1590,007 1,828,556,676 1,858,676	1,7	70.784.389 73.1	73.117.378 7/	74,211,121	73,909,499	68.294.711	62,964,307	64.074.671	64,795,063
41,657 enty, Plant & Equipment 41,657 22,480,007 23,80,000 24,05,347 1,528,555,617 1,558,617 1,558,617	1,7	1,172,400 1,2		1,230,446	1,260,540	1,291,371	1,322,957	1,355,317	1,388,470
enty, Plant & Equipment 1,690,759,707 (29,160,000 29,60,000 2,405,347 1,828,555,676 1,955,911,142 1,955,911,142	1,1	43,766	44,960	45,981	47,131	48,309	49,517	50,755	52,024
/ 29,180,000 963,221 963,221 2,405,347 1,228,556,676 1,955,911,134		1,781,538,391 1,782,917,006		1,784,936,403 1	1,790,011,537	1,805,328,801	1,820,223,055	1,819,759,204	1,818,576,618
963 221 2405 347 2 405 347 1 282,656 676 1 565 676 1 565 676		29,386,753 29,4	29,494,021 29	29,603,972	29,716,671	29,832,188	29,950,593	30,071,957	30, 196, 356
2,405,347 1,828,555,676 1,955,911,134			926,051	908,590	888,333	865,111	838,748	809,059	775,849
nt Assets 1,828,555,676 1,955,911,134	-	1.571,838 1.1	1,154,194	735,924	405,358	403,245	380,559	358,555	315,987
1.955.911.134				1,891,672,437 1	1,896,239,068	1,906,063,736	1,915,729,735	1,916,479,519	1,916,100,366
	1,967,147,942 1,974,737,458	737,458 1,980,839,601		1,985,166,294 1	1,989,621,544	1,993,232,661	1,996,951,848	1,999,077,796	1,999,749,999
LIABILITIES									
Current Liabilities									
Payables 11,747,870 11	11,738,672 12,	12,277,182 12,5	12,514,551 12	12,938,139	13,140,087	13,547,579	13,711,778	14,122,274	14,474,208
Contract liabilities 1,746,345	1,812,264 1,	1,852,646 1,8	1,894,036	1,936,462	1,979,948	2,024,522	2,070,210	2,117,040	2,165,041
Lease liabilities 485,784	502,755	520,351 5	538,564	431,775	40,514	44,227	47,359	50,062	52,453
15,811,604	15,003,968 14,	14,196,333 13,3		12,581,061	11,773,425	10,965,789	10,158,154	9,350,518	8,542,882
	29,057,659 28,	28,846,511 28,3	28,335,849 2	27,887,437	26,933,975	26,582,117	25,987,500	25,639,894	25,234,584
Non-Current Liabilities									
Contract liabilities 479,719	491,617	503,600 5	515,883	528,473	541,378	554,605	568,163	582,060	596,304
Lease liabilities 2,155,500	1,652,745 1,	1,132,394 5	593,830	162,055	121,541	132,683	142,077	150,187	157,360
Provisions 3,852,258 3	3,703,825 3,	3,555,391 3,4	3,406,958	3,258,525	3,110,092	2,961,659	2,813,225	2,664,792	2,516,359
Total Non-Current Liabilities 6,487,477 6	5,848,187 5,	5,191,386 4,5	4,516,671	3,949,053	3,773,010	3,648,946	3,523,465	3,397,039	3,270,023
TOTAL LIABILITIES 34 36,279,080 34		34,037,897 32,8	32,852,520 3'	31,836,490	30,706,985	30,231,064	29,510,966	29,036,933	28,504,607
Net Assets 1,919,632,054 1,933	,932,242,096 1,940,	1,940,699,561 1,947,987,081		1,953,329,803 1	1,958,914,559	1,963,001,597	1,967,440,882	1,970,040,864	1,971,245,392
EQUITY									
Relained Farnings 156 054 1 302	1 305 766 096 1 314	1 314 223 561 1 321 511 081		1 326 853 803 1	1 332 438 559	1 336 525 597	1 340 964 882	1 343 564 864	1 344 769 392
es 626.108.000					626,108,000	626.108.000	626,108,000	626.108.000	626,108,000
368,000				368,000	368,000	368.000	368.000	368,000	368.000
1,919,632,054		1,947,			1,958,914,559	1,963,001,597	1,967,440,882	1,970,040,864	1,971,245,392

Balance Sheet (Financial Statements)

CASH FLOW STATEMENT - GENERAL FUND	Actuals	Current Year					Projected Years	1 Years				
2.28% Rate Peg 2022/23	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32
Normal Continuance of Services & AMP Funding	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	
Cash Flows from Operating Activities												
Receipts:												
Rates & Annual Charges	100,621,000	102,494,746	109,112,147	111,602,975	114,221,791	116,904,022	119,649,357	122,459,284	125,335,325	128,279,039	131,292,022	134,375,906
User Charges & Fees	14,556,000	14,260,521	14,229,851	14,555,019	14,923,596	15,296,686	15,679,103	16,071,080	16,472,857	16,884,679	17,306,796	17,739,466
Investment & Interest Revenue Received	4,158,000	3,581,105	5,099,265	5,559,621	4,659,921	3,755,606	3,748,159	3,850,889	3,916,639	3,944,066	3,899,461	3,858,022
Grants & Contributions	24,728,000	19.934.230	21,168,820	22.348.319	22.761.542	23.203.081	23.655.658	24.119.549	24,595,038	25.082.414	25,581,974	26.094.024
Bonds & Deposits Received	22,000	•	•	•	•	•	•	•	•	•	•	
Other	16,481,000	7,122,271	6,611,208	6,811,691	6,984,178	7,158,783	7,337,753	7,521,196	7,709,226	7,901,967	8,099,506	8,301,994
Payments:												
Employee Benefits & On-Costs	(48,637,000)	(52,245,683)	(55,731,994)	(57,383,605)	(59,400,767)	(61,497,843)	(63,374,638)	(65,309,614)	(67,304,573)	(69,491,164)	(71,752,822)	(74,089,115)
Materials & Contracts	(66.930.000)	(58.874.294)	(61.307.935)	(60.497.941)	(63.788.275)	(64.952.386)	(67,441,526)	(68,804,155)	(71.085.283)	(71,426,625)	(73.578.568)	(75.390.645
Borrowing Costs	(171,000)	(26.540)	(53.721)	(182.158)	(149.071)	(111.216)	(67.525)	(18.162)	(8,893)	(8,708)	(10.396)	(10.989)
Other	(3 794 000)	(9 960 082)	(8 761.920)	(9.041.124)	(9 166 642)	(9.450.439)	(9 659 618)	(9.381.089)	(9 577 392)	(9.859.334)	(10.063.315)	(10.326.690
Net Cash provided (or used in) Operating Activities	41,134,000	26,286,273	30,365,720	33,772,796	31,046,273	30,306,293	29,526,723	30,508,980	30,052,944	31,305,323	30,774,657	30,551,972
Cash Flows from Investing Activities												
Receipts:												
Sale of Investment Securities	126,000,000	•	33,502,332	31,994,445	37,535,241	•	'	629,763	11,723,215	11,129,446	•	
Sale of Infrastructure, Property, Plant & Equipment	1,071,000	1,000,000	1,000,000	1,021,000	1,046,525	1,072,688	1,099,505	1,126,993	1,155,168	1,184,047	1,213,648	1,243,989
Payments:												
Purchase of Investment Securities	(134,316,000)	•	•	•	•	(4,871,090)	(2,283,645)	•	•	'	(2,318,350)	(1,504,118)
Purchase of Investment Property	(3.548,000)		1	1	1	1	1	1	1	1	1	
Purchase of Infrastructure, Property, Plant & Equipment	(34,641,000)	(64.955.344)	(66,705,366)	(67,021,295)	(69,985,651)	(25,922,202)	(27,568,536)	(31,671,312)	(43.003.682)	(43,715,904)	(29,539,888)	(30,052,040)
Purchase of Intangible Assets	(13,000)	•	'	(115,000)	(117,875)	(120,822)	(123,842)	(126,938)	(130,112)	(133,365)	(136,699)	(140,116
Net Cash provided (or used in) Investing Activities	(45,447,000)	(63,955,344)	(32,203,035)	(34,120,850)	(31,521,761)	(29,841,426)	(28,876,519)	(30,041,494)	(30,255,411)	(31,535,775)	(30,781,289)	(30,452,285)
Cash Flows from Financing Activities												
Repayment of Borrowings & Advances	(366.000)	(241.970)	(257.030)	'	1	1	1	'	'	'	1	
Repayment of lease liabilities (principal repayments)	(220,000)	•	(105,783)	(485,784)	(502,755)	(520.351)	(538,564)	(431.775)	(40,514)	(44,227)	(47,359)	(50,062)
Net Cash Flow provided (used in) Financing Activities	(586,000)	(241,970)	(362,813)	(485,784)	(502,755)	(520,351)	(538,564)	(431,775)	(40,514)	(44,227)	(47,359)	(50,062
Net Increase/(Decrease) in Cash & Cash Equivalents	(4.899.000)	(37.811.041)	(2.200.127)	(833.838)	(978.242)	(55.484)	111.640	35.711	(242.981)	(274.679)	(53.991)	49.625
plus: Cash & Cash Equivalents - beginning of year	50.674.000	45.775.000	7,863.959	5.663.832	4.829.993	3.851.751	3.796.267	3.907.908	3.943.619	3.700.637	3.425.958	3.371.967
Cash & Cash Equivalents - end of the year	45,775,000	7,863,959	5,663,832	4,829,993	3,851,751	3,796,267	3,907,908	3,943,619	3,700,637	3,425,958	3,371,967	3,421,592
Investments - end of the year	250,824,000	250,824,000	217,321,668	185,327,224	147,791,983	152,663,073	154,946,719	154,316,955	142,593,741	131,464,294	133,782,645	135,286,762
Cash, Cash Equivalents & Investments - end of the year	296,599,000	258,687,959	222,985,500	190,157,217	151,643,734	156,459,341	158,854,626	158,260,574	146,294,378	134,890,253	137,154,612	138,708,354
Representing:												
 External Restrictions 	195,541,000	160,611,578	123,215,506	93,405,562	59,550,766	66,691,986	73,959,025	77,228,471	69,176,255	60,709,973	67,748,617	74,886,051
 Internal Restrictions 	82,223,000	77,728,499	77,758,686	73,199,596	69,092,765	68,487,000	67,831,078	67,123,744	66,363,713	65,549,668	64,680,259	63,754,101
- Unrestricted	18,835,000	20,347,881	22,011,307	23,552,059	23,000,203	21,280,354	17,064,523	13,908,360	10,754,410	8,630,612	4,725,736	68,203

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Indicator	Benchmark	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32
Operating Performance Ratio	>2% (>0% OLG)	0.98%	2.13%	%29.0-	-1.47%	-2.72%	-2.58%	-3.48%	-3.27%	-4.31%	-5.06%
Own Source Operating Revenue	>60%	86.48%	86.12%	86.08%	86.07%	86.11%	86.16%	86.20%	86.24%	86.28%	86.31%
Ratio											
Unrestricted Current Ratio	>1.5	6.40	5.98	5.24	5.39	5.15	5.05	4.76	4.60	4.27	3.91
Debt Service Cover Ratio	>2	54.62	38.29	34.05	34.55	34.16	48.27	422.82	412.66	371.47	346.62
Asset Maintenance Ratio	>100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Asset Renewals Ratio	>100%	141%	100%	100%	100%	100%	100%	100%	100%	100%	100%
Infrastructure Backlog Ratio	<2%	0.63%	0.63%	0.64%	0.64%	0.64%	0.64%	0.64%	0.64%	0.65%	0.65%

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Local Government Performance Indicators

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Kesults – Normal Continuance of Service, Asset Management Kequirements & ASKV The results after allowing for a permanent increase to income from rates of 2.28% from 2022/23 are marginally improved compared to Council's base case
LTFP with a 0.7% rate peg in the same year.
The Income Statement result over the 10 year period continues to predict a deficit in eight out of the ten years. However, the average deficit has decreased
from (\$4.736) million to (\$3.437) million per year. The average budget deficit has decreased from (\$3.096) million to (\$1.797) million per year and this level of
unencumbered cash remains insufficient to absorb budget shocks that may occur.
The Balance Sheet result over the 10 year period maintain equity, liabilities and non-current assets within acceptable levels. The level of cash and cash
equivalents will decrease from existing levels. This is a direct result of reduced operating capacity forecasted over the period of the Plan.
The Operating Performance Ratio is below 2% in 9 of the 10 years forecast and is lower than the acceptable threshold.
Infrastructure ratios are at or above the applicable benchmarks as this version of the LTFP includes the funding required to maintain and renew assets to a
satisfactory standard. As in the 0.7% scenario the 2.28% scenarios while attempting to address core asset maintenance the forecasted Income Statement
and Cash Budget Results that over the forecasted period demonstrates there is insufficient operating capacity to fund asset management requirements. The
drawn down on cash reserves while possible would be considered not to be fiscally responsible.
The Cash Flow Statement forecasts a decrease in Council's unrestricted cash balance, which remains positive over the life of the Plan but falls to \$68K by 30
June 2032 from the gradual decline in Council's available liquidity as forecast budget deficits require funding from investment and cash reserves.
The results in this version of the Plan indicates that Council's forecast financial sustainability is unsatisfactory after allowing for additional rating income
should Council's application to IPART be successful for the 2022/23 additional special rate variation. Further action will be required as discussed within the
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UVer	Over recent years council has undertaken a series of rechnical and evidence-based strategies across council to formulate initiatives required to deliver
servic	services for each of Council's unique disciplines. 28 different strategies and technical documents have been adopted by Council as listed below:
1.	Community and Cultural Facilities Strategic Plan 2021
2.	Comprehensive Heritage Study – Hornsby Thematic History (2021)
3.	Local Strategic Planning Statement 2020
4.	Local Housing Strategy 2020
5.	Disability Inclusion Action Plan 2017-2020
.9	Active Living Hornsby Strategy 2016
7.	Sportsground Strategy 2018
8.	Play Plan 2021
9.	Unstructured Recreation Strategy 2008
10.	Off Leash Dog Park Strategy 2021
11.	Sustainable Water Based Recreation Facilities Plan 2012
12.	Biodiversity Conservation Strategy 2021
13.	Urban Forest Strategy 2021
14.	Water Sensitive Hornsby Strategy 2021
15.	Climate Wise Homsby Plan 2021
16.	Waste Matters Strategy 2020
17.	Bushfire Management Strategy 2020 (internal)
18.	Homsby Ku-ring-gai Bush Fire Risk Management Plan 2016-2021 (under review)
19.	Economic Development and Tourism Strategy 2021-26
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Strategic Initiatives

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Adopted Documents

Over recent years Council has undertaken a series of technical and evidence-based strategies across Council to formulate initiatives required to deliver

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 Public Domain Guidelines 2021 Integrated Land Use and Transport Strategy 2004 (under review) Car Parking Management Study 2020 Car Parking Management Study 2020 Walking and Cycling Strategy 2021 Bike Plan 2019 Community Engagement Plan 2021 - Communications and Engagement Strategies 2019 (internal) Technology and Transformation Strategy 2020-2023 (internal) Brooklyn Discussion Paper A range of strategic initiatives are identified across the documents, some of which can be funded within existing but as from external grants, additional income or from available general fund capacity within the LTFP. Based on prelit Officers approximately \$8 8 million of funding is required to deliver 50% of the unfunded initiatives. At the date of premaining 50% of the initiatives is being undertaken. 	 Public Domain Guidelines 2021 Public Domain Guidelines 2021 Integrated Land Use and Transport Strategy 2004 (under review) Car Parking Management Study 2020 Walking and Cycling Strategy 2021 Bike Plan 2019 Community Engagement Plan 2021 - Communications and Engagement Strategies 2019 (internal) Technology and Transformation Strategy 2020-2023 (internal) Technology and Transformation Strategy 2020-2023 (internal) Brooklyn Discussion Paper A range of strategic initiatives are identified across the documents, some of which can be funded within existing budgets and some that require funding such as from external grants, additional income or from available general fund capacity within the LTFP. Based on preliminary analysis undertaken by Council Officers approximately \$8 8 million of funding is required to deliver 50% of the unfunded initiatives. At the date of preparing this Plan detailed costing for the remaining 50% of the initiatives is being undertaken.
Integrated Land Use and Transport Stra Car Parking Management Study 2020 Walking and Cycling Strategy 2021 Bike Plan 2019 Community Engagement Plan 2021 - Co Technology and Transformation Strateg Brooklyn Discussion Paper ange of strategic initiatives are identified acro from external grants, additional income or fro icers approximately \$8.8 million of funding is naining 50% of the initiatives is being underta ddition to the above adopted documents app tated Workforce and Technology Plans to me	gement Strategies 2019 (internal) of which can be funded within existing budgets and some that require funding such capacity within the LTFP. Based on preliminary analysis undertaken by Council of the unfunded initiatives. At the date of preparing this Plan detailed costing for the
Car Parking Management Study 2020 Walking and Cycling Strategy 2021 Bike Plan 2019 Community Engagement Plan 2021 - Co Technology and Transformation Strateg Brooklyn Discussion Paper ange of strategic initiatives are identified acro from external grants, additional income or fro icers approximately \$8.8 million of funding is naining 50% of the initiatives is being underta addition to the above adopted documents applicated workforce and Technology Plans to me	gement Strategies 2019 (internal) of which can be funded within existing budgets and some that require funding such capacity within the LTFP. Based on preliminary analysis undertaken by Council of the unfunded initiatives. At the date of preparing this Plan detailed costing for the
Walking and Cycling Strategy 2021 Bike Plan 2019 Community Engagement Plan 2021 - Co Technology and Transformation Strateg Brooklyn Discussion Paper ange of strategic initiatives are identified acro from external grants, additional income or fro ciers approximately \$8.8 million of funding is naining 50% of the initiatives is being underta didition to the above adopted documents app lated Workforce and Technology Plans to me	gement Strategies 2019 (internal) of which can be funded within existing budgets and some that require funding such capacity within the LTFP. Based on preliminary analysis undertaken by Council of the unfunded initiatives. At the date of preparing this Plan detailed costing for the
Bike Plan 2019 Community Engagement Plan 2021 - Co Technology and Transformation Strateg Brooklyn Discussion Paper ange of strategic initiatives are identified acro from external grants, additional income or fro icers approximately \$8.8 million of funding is laining 50% of the initiatives is being underta addition to the above adopted documents app lated Workforce and Technology Plans to me	gement Strategies 2019 (internal) of which can be funded within existing budgets and some that require funding such capacity within the LTFP. Based on preliminary analysis undertaken by Council of the unfunded initiatives. At the date of preparing this Plan detailed costing for the
Community Engagement Plan 2021 - Co Technology and Transformation Strateg Brooklyn Discussion Paper ange of strategic initiatives are identified acro from external grants, additional income or fro cers approximately \$8.8 million of funding is laining 50% of the initiatives is being underta addition to the above adopted documents applicated Workforce and Technology Plans to me	gement Strategies 2019 (internal) of which can be funded within existing budgets and some that require funding such capacity within the LTFP. Based on preliminary analysis undertaken by Council of the unfunded initiatives. At the date of preparing this Plan detailed costing for the
Technology and Transformation Strateg Brooklyn Discussion Paper ange of strategic initiatives are identified acro from external grants, additional income or fro icers approximately \$8.8 million of funding is iaining 50% of the initiatives is being underta addition to the above adopted documents app tated Workforce and Technology Plans to me	of which can be funded within existing budgets and some that require funding such capacity within the LTFP. Based on preliminary analysis undertaken by Council of the unfunded initiatives. At the date of preparing this Plan detailed costing for the
Brooklyn Discussion Paper ange of strategic initiatives are identified acro from external grants, additional income or fro icers approximately \$8.8 million of funding is naining 50% of the initiatives is being underta addition to the above adopted documents applicated Workforce and Technology Plans to me	of which can be funded within existing budgets and some that require funding such capacity within the LTFP. Based on preliminary analysis undertaken by Council of the unfunded initiatives. At the date of preparing this Plan detailed costing for the
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smaining 50% of the initiatives is being undertaken. I addition to the above adopted documents appropriate funding conside pdated Workforce and Technology Plans to meet staff and community e	
i addition to the above adopted documents appropriate funding consider pdated Workforce and Technology Plans to meet staff and community e	
pdated Workforce and Technology Plans to meet staff and community e	In addition to the above adopted documents appropriate funding consideration is required in respect to modernising Council's workforce as identified in the
ue to deficits being forecast in eight out of ten years in the LTEP there i	xpectations in respect to service delivery.
תם וה תפוורות הכוווה והוההמתו וו הואווי במי הו זהוו להמות וו מות דיווי מיייבי	years in the LTFP there is insufficient financial capacity to fund the initiatives identified unless alternative
funding sources are determined. Because of the quantum of funds requir	quantum of funds required and given that rating income makes up 80% of Council's own source revenue the
only way to fund the initiatives identified would be through a special rate v	e through a special rate variation above the variation required to fund recurrent operations and Council's
sset management requirements. Therefore, it is recommended that corr	asset management requirements. Therefore, it is recommended that community consultation is undertaken to prioritise the initiatives identified and determine
community support for a special rate variation.	

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There are several significant challenges that may place pressure on Council's Annual Budget over the period of the Plan.

Hornsby Shire Council

Major Projects - Capital expenditure included in the LTFP is as high as \$70 million in some years and is largely funded from external grants and development contributions. There is a level of unavoidable financial risk from capital expenditure budgets of this size and the use of general funds may be required if unexpected cost escalations occur that cannot be offset through project scope reductions or funded from external sources. Current external economic forecasts indicate that the cost of raw materials and contracts will increase in line with rising inflation this year, which will place pressure on these budgets. It is noted that due to supply chain issues being experienced in the construction sector has seen material costs rising by at least 15%

Council's largest project, Hornsby Park poses a large financial risk given the total approved budget of \$79.4 million is greater than the income Council Furthermore, risk extends past the completion date of capital works as ongoing budgets for operational, maintenance and renewal expenditure must generates from rates each year. A small percentage increase in the total cost of this project would significantly affect the budget in any given year. provided into the future to maintain newly created assets in a satisfactory condition g

- ate from 0.1% in 2022/23 to 2.25% by 2031/2032. If the base rate does not increase as forecast Council will receive less income than expected which will reduce financial capacity. Conversely, should the base rate increase at a greater rate than forecast Council would benefit from having more Investment income returns - Investment income in the LTFP is forecast to increase over the life of the Plan in line with a forecast increase in the base nvestment income to allocate to expenditure over the life of the Plan. •
- particularly in respect to pricing and expenses included in this service. The consequence of these potential changes, if approved, may result in a The Independent Pricing and Regulatory Tribunal (IPART) have released a draft report into the review of Domestic Waste Management services significant financial impost on Council's budget estimated at \$2.3 million and that would require a rebalancing of Domestic Waste and general funds •

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n future years through a Special Rate Variation to IPART. There is insufficient capacity within the LTFP to fund these proposed changes within a given year

- State Government between 2018 and 2022. Each of these events typically costs Council several hundred thousand dollars in clean-up costs that are unding in the 2022/23 Annual Budget. The funding requirements from the most recent event as well as the possibility of further disasters are a risk to not always able to be recouped from the NSW State Government. A cost estimate to rectify damaged Council Infrastructure (i.e. roads) from the February 2022 floods is currently being prepared, which is expected to be larger in cost than the previous years' events, and which will require The Hornsby Shire Local Government Area has been impacted by multiple severe weather events that were declared Natural Disasters by the NSW the Plan
- initiatives of which 50% have been costed and require \$8.8million of funding. Additionally, Council's revised Workforce Management Plan forms part of the Resourcing Strategy of which this LTFP is a part. It is likely that the Workforce Management plan will require additional expenditure to fund the Strategic Initiatives & Resourcing Strategy - as noted on page 51 Council has adopted 28 strategies and technical documents that include unfunded nitiatives identified •
- worked from a temporary office location in Thomleigh. Whilst the cost of leasing this premises is included within the LTFP for the next 5 years there is a long term need for Council to resolve office accommodation needs that will require funding beyond this point. In this regard it is noted that the former office site in Hornsby would require capital investment to be re-fitted as an office. An analysis of various options is currently in progress at the Workplace of the Future - Since the discovery of asbestos in Council's old Administration Centre based in Hornsby, Council staff have predominantly time of writing this report and may need funding to resolve this matter. •

identified in the master plans for Hornsby Park and Westleigh Park based on current estimates, and one to forecast the potential benefit to Council should the The next sections of this report include two Sensitivity Analysis, one to forecast the capital and ongoing financial impact of delivering the full scope of works interest base rate increase greater than forecast in the LTFP

The full scope of works identified in the Master Plan for Hornsby Park is estimated to cost \$130 million and the associated recurrent operating and maintenance budget is estimated at \$3 million per year. For Westleigh Park the full scope of works identified in the Master Plan is estimated to cost \$70 million and has an associated recurrent cost of \$1.2 million. A sensitivity analysis has been undertaken to demonstrate the impact on Council's financial capacity should the full scope of works identified in the Master Plan is estimated to cost \$70 million and has an associated recurrent cost of \$1.2 million. A sensitivity analysis has been undertaken to demonstrate the impact on Council's financial capacity should the full scope of works be undertaken. Recurrent Operating, Maintenance & Renewal This sensitivity analysis includes an additional \$1.6 million in recurrent expenditure for Hornsby Park from 2025/26 (making \$3 million in total) and a \$1.2 million recurrent budget for Westleigh Park from 2025/26 (operating and maintenance expenditure) and 50% has been treated as capital (for ongoing asset renewal) Net Operating Surplus before Capital Items & Asset Sales Met Operating Surplus before Capital Items & and total states and total states and to state and states and to state and states and states and to a \$1.2 million in total) Met Operating Surplus before Capital Items & Asset Sales Met Operating Surplus before Capital Items & 52.129Million (\$5.240Million) #52.129Million (\$5.2165Million) *5.2023Million (\$5.243Million) *5.203Million (\$5.243Million) *5.203Million (\$5.243Million)	million and the associated recurrent operating and dentified in the Master Plan is estimated to cost \$70	is estimated to cost \$130 n ark the full scope of works ide buncil's financial capacity shou puncil trancial capacity shou auncil's financial capacity shou buncil's financial capacity shou additional funding has been al)	lan for Hornsby Park lear. For Westleigh P nillion. strate the impact on Co strate the impact on Co strate the impact on Co strate the impact on Co	in the Master Plet \$3 million per y ent cost of \$1.2 n rtaken to demons <u>rtaken additional</u> \$1.6 eigh Park from 2	works identified i at is estimated at issociated recurre s has been under <u>a. Maintenance &</u> lysis includes an udget for Westlei	The full scope of v maintenance budge million and has an a A sensitivity analysi <u>Recurrent Operatin</u> This sensitivity ana million recurrent bu
maintenance budget is estimated at \$3 million per year. For Westleigh Park the full scope of works identified in the Master Ple million and has an associated recurrent cost of \$1.2 million. A sensitivity analysis has been undertaken to demonstrate the impact on Council's financial capacity should the full scope of works identified in the Master Ple Recurrent Detating, Maintenance & Renewal This sensitivity analysis includes an additional \$1.6 million in recurrent expenditure for Hornsby Park from 2025/26 (making \$3 million recurrent budget for Westleigh Park from 2025/26. 50% of the additional funding has been treated as operating (cexpenditure) and 50% has been treated as capital (for ongoing asset renewal) Net Operating Surplus before Capital Items & Asset Sales Net Operating Surplus before Capital Items & 23/24 <u>24/25</u> <u>25/26</u> <u>26/27</u> <u>27/28</u> <u>28/29</u> <u>28/29</u> Base LTFP <u>\$0.383M</u> <u>\$2.129M</u> <u>\$2.155M</u> <u>\$3.460M</u> <u>\$6.943M</u> <u>\$5.643M</u> <u>\$6.843M</u> <u>\$7.066M</u> <u>\$8.466M</u> <u>\$6.833M</u>	dentified in the Master Plan is estimated to cost \$70	ark the full scope of works ide buncil's financial capacity shou penditure for Hornsby Park fr additional funding has been al)	ear. For Westleigh P nillion. strate the impact on Co million in recurrent ex 2025/26. 50% of the	t \$3 million per y ent cost of \$1.2 n rtaken to demons <u>rtaken additional</u> \$1.6 eigh Park from 2	tt is estimated at issociated recurre s has been under <u>a. Maintenance &</u> lysis includes an udget for Westlei	naintenance budge nillion and has an <i>a</i> A sensitivity analysi <u>Recurrent Operatin</u> This sensitivity ana million recurrent bi
A sensitivity analysis has been undertaken to demonstrate the impact on Council's financial capacity should the full scope of works Recurrent Operating, Maintenance & Renewal This sensitivity analysis includes an additional \$1.6 million in recurrent expenditure for Hornsby Park from 2025/26 (making \$3 million recurrent budget for Westleigh Park from 2025/26. 50% of the additional funding has been treated as operating (cexpenditure) and 50% has been treated as capital (for ongoing asset renewal) Net Operating Surplus before Capital Items & Asset Sales Base LTFP \$0.383M \$2.129M (\$2.155M) (\$5.543M) (\$5.543M) (\$7.086M) (\$6.843M) (\$8.486M) (\$6.843M) (\$8.486M) (\$6.843M) (\$8.283M) (\$8.283M)		ouncil's financial capacity shou penditure for Hornsby Park fr additional funding has been al)	strate the impact on C million in recurrent ex 2025/26. 50% of the	rtaken to demons <u>Renewal</u> additional \$1.6 igh Park from 2	s has been under <u>1. Maintenance &</u> lysis includes an udget for Westlei	A sensitivity analysi <u>Recurrent Operatin</u> This sensitivity ana million recurrent br
Recurrent Operating, Maintenance & Renewal This sensitivity analysis includes an additional \$1.6 million in recurrent expenditure for Hornsby Park from 2025/26 (making \$3 million recurrent budget for Westleigh Park from 2025/26. 50% of the additional funding has been treated as operating (cexpenditure) and 50% has been treated as capital (for ongoing asset renewal) Net Operating Surplus before Capital Items & Asset Sales Mat Operating Surplus before Capital Items & Asset Sales Base LTFP \$0.383M \$2.129M (\$3.460M) (\$5.543M) (\$7.086M) (\$6.883M) + \$2.8M recurrent \$0.383M \$2.129M (\$2.155M) (\$4.860M) (\$6.943M) (\$6.843M) (\$8.283M)	ould the full scope of works be undertaken.	penditure for Hornsby Park fr additional funding has been al)	million in recurrent ex 2025/26. 50% of the	<u>Renewal</u> additional \$1.6 eigh Park from 2	<mark>a, Maintenance &</mark> Iysis includes an udget for Westlei	<u>Recurrent Operatin</u> This sensitivity ana million recurrent br
Neurant Operating, maintenance or Neurem This sensitivity analysis includes an additional \$1.6 million in recurrent expenditure for Hornsby Park from 2025/26 (making \$3 million recurrent budget for Westleigh Park from 2025/26. 50% of the additional funding has been treated as operating (c ween treated as capital (for ongoing asset renewal) Net Operating Surplus before Capital Items & Asset Sales 23/24 24/25 25/26 26/27 21/28 28/29 29/30 Base LTFP \$0.383M \$2.129M (\$2.155M) (\$4.860M) (\$5.543M) (\$5.543M) (\$8.283M)		penditure for Hornsby Park fr additional funding has been al)	million in recurrent ex 2025/26. 50% of the	additional \$1.6 igh Park from 2	<u>4. wannenance a</u> lysis includes an udget for Westlei	This sensitivity ana million recurrent bu
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50% has been treated as capital (for ongoing asset renewal) plus before Capital Items & Asset Sales 22/23 23/24 24/25 25/26 26/27 27/28 28/29 \$0.383M \$2.129M (\$2.155M) (\$3.460M) (\$5.543M) (\$5.543M) (\$7.086M) \$0.383M \$2.129M (\$2.155M) (\$4.860M) (\$6.943M) (\$6.843M) (\$8.486M)	n treated as operating (operating and maintenance	al)	r ondoind asset renew			
plus before Capital Items & Asset Sales 22/23 23/24 24/25 25/26 26/27 27/28 28/29 \$0.383M \$2.129M (\$2.155M) (\$3.460M) (\$5.543M) (\$7.086M) \$0.383M \$2.129M (\$2.155M) (\$4.860M) (\$6.943M) (\$6.843M) (\$8.486M)				ted as capital (fo)% has been treat	expenditure) and 5(
22/23 23/24 24/25 25/26 26/27 27/28 28/29 \$0.383M \$2.129M (\$2.155M) (\$3.460M) (\$5.543M) (\$7.086M) \$0.383M \$2.129M (\$2.155M) (\$3.460M) (\$5.543M) (\$7.086M) \$0.383M \$2.129M (\$2.155M) (\$4.860M) (\$6.943M) (\$8.486M)			sales		lus before Capital	Vet Operating Surp
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\$0.383M \$2.129M (\$2.155M) (\$4.860M) (\$6.943M) (\$6.843M) (\$8.486M)		(\$5.543M)		<u> </u>	\$0.38	3ase LTFP
	+	(\$6.943M)	-	\$	\$0.38	+ \$2.8M recurrent
maintenance from 25/26					5/26	maintenance from 2

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Hornsby Shire Council

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	7314	¢1 01EN		(\$2 310M)		+	(\$4.644M)	(\$3405M)	(\$5.363M)	14200 04/
Base LIFP \$0.423M	INIC7.	MC+0.1¢	(\$1.610M)		(\$5.041M)	(\$3.969M)				(M) 80.04)
+ \$2.8M recurrent \$0.423M	23M	\$1.045M	(\$1.610M)	(\$5.110M)	(\$7.841M)	(\$6.769M)) (\$7.444M)	(\$6.205M)	(\$8.163M)	(\$8.887M)
maintenance from 25/26										
-	1							_		
The average budget deficit is forecast to increase from (\$3 096M) to (\$5 056M). There is a cash deficit of \$8 887M in 2031/32 that requires funding	st to ir	icrease froi	m (\$3.096M)	to (\$5.056M)	There is a c	cash deficit o	of \$8.887M in 2	2031/32 that r	eauires fundii	DC
	:									ä
Recurrent Operating & Maintenance & Capital	& Ca	nital								
The following Sensitivity Analysis includes the capital funding gap within general funds in 2024/25 also. For Hornsby Park the funding gap to complete the full	cludes	the capital	l funding gap	within genera	al funds in 20)24/25 also.	For Hornsby F	ark the fundi	ng gap to cor	nplete the
scope of works is \$50.6 million and for Westleigh Park \$13.5 million. Depreciation has been forecasted based on the average expected useful life of all	d for \	Nestleigh F	² ark \$13.5 n	nillion. Depre	ciation has b	een foreca	sted based on	the average	expected us	eful life of
assets.										
Net Operating Surplus before Capital Items & Asset Sales	al Item	s & Asset S	Sales							
22/23		23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32
Base LTFP \$0.383M		\$2.129M	(\$2.155M)	(\$3.460M) ((\$5.543M)	(\$5.543M)	(\$7.086M)	(\$6.883M)	(\$8.875M)	(\$10.426M)
+ \$2.8M recurrent \$0.383M	-	\$2.129M	(\$2.155M)	(\$6.463M) ((\$8.613M)	(\$8.582M)	(\$10.298M)	(\$10.170M)	(\$12.241M)	(\$13.874M)
maintenance in 2024/25										
and \$64.1M capital funding										
gap										

The average Income Statement deficit is forecast to increase from (\$4.736M) to (\$5.716M). There is a deficit of \$11.826M in 2031/32 that requires funding.

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cause of the significance of an increase in scope or increase in total cost of the Improve Future Direction section of this report.	hese major pr	ojects sever	ral recommer	ıdations are	included with	nin the Actio
Improve Future Direction section of this report.						
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	nt operatio	at has led		stment re	of the m		ised on in	tment retu					30/31	(\$8.875N	(\$7.545N		early yea
	fund recurre	ain factors th		lan and inve	an estimate		performed ba	rerage invest					29/30	(\$6.883M)	(\$5.554M)		cularly in the
	ie returns to	one of the ma		ame of the P	Reuters plus		s has been p	acity from av		J	IFP.		28/29	(\$7.086M)	(\$5.757M)		ncome, parti
	stment incom	1%. This is o		r the time fr	ecasts from		itivity analysi	financial cap		equirements	ncil's base L		27/28	(\$5.543M)	(\$4.114M) (\$5.757M)		investment i
	ance on inve	o a low of 0.		ase rate ove	ase rate for		efore, a sens	in Council's 1		anagement r	36M) in Coul		26/27	(\$5.543M)	(\$4.215M)		he additional
su	ouncil of relia	of Australia t		ase in the b	nal interest b		recast. There	the impact o		ding asset m	ed with (\$4.7		25/26	(\$3.460M)	(\$2.046M)		esults from th
ient Retu	version of Council's LTFP identified a risk to Council of reliance on investment income returns to fund recurrent operatic	serve Bank		version of this LTFP forecasts a gradual increase in the base rate over the time frame of the Plan and investment re	o 3.12% in 2031/32 based on the latest external interest base rate forecasts from Reuters plus an estimate of the m		eater than fo	each year. The following results demonstrate the impact on Council's financial capacity from average investment retu		e LTFP inclu	year compare	k Asset Sales	24/25	(\$2.155M)	(\$0.458M)		statement re
. Investm	TFP identifie	ate by the Re		forecasts a (ased on the	il holds.	increases gr	ving results (pared to bas	3.141M) per	apital Items 8	23/24	\$2.129M	\$4.310M		ecast income
nalysis -	f Council's L	o the base ra		f this LTFP	n 2031/32 b	that Counci	e base rate	ır. The follow	1 2031/32.	Results (com	edeficit of (\$	lus before Cá	22/23	\$0.383M	\$3.066M		ent in the fore
Sensitivity Analysis – Investment Returns	The 2019 version of	been several cuts to the base rate by the Reserve Bank of Australia to a low of 0.1%. This is one of the main factors that has led	financial capacity.	The base version o	2022/23 to 3.12% i	investment products that Council holds.	It is possible that the base rate increases greater than forecast. Therefore, a sensitivity analysis has been performed based on in-	greater in each yea	2022/23 to 4.12% in 2031/32	Income Statement Results (compared to base LTFP including asset management requirements)	There is an average deficit of (\$3.141M) per year compared with (\$4.736M) in Council's base LTFP.	Net Operating Surplus before Capital Items & Asset Sales		Base LTFP	+ 1% Interest	Base Rate	There is improvement in the forecast income statement results from the additional investment income, particularly in the early year
General Meeting 11	May	/ 20)22														

ions. Since then, there have ed to a decrease in Council's

eturns range from 1.78% in margin based on the mix of nvestment returns being 1% turns ranging from 2.78% in

		-		
	31/32	(\$10.426M)	(\$9.098M)	
	30/31	(\$8.875M)	(\$7.545M)	
	29/30	(\$6.883M) (\$8.875M)	(\$5.554M)	
	28/29	(\$7.086M)	(\$4.114M) (\$5.757M) (\$5.554M) (\$7.545M)	
	27/28	(\$3.460M) (\$5.543M) (\$5.543M) (\$7.086M)	(\$4.114M)	
	26/27	(\$5.543M)	\$2.046M) (\$4.215M) ((
S	25/26	(\$3.460M)	(\$2.046M)	
& Asset Sale	24/25	(\$2.155M) (\$	(\$0.458M) (
apital Items	23/24	\$0.383M \$2.129M	\$3.066M \$4.310M	
lus before C	22/23	\$0.383M	\$3.066M	
Net Operating Surplus before Capital Items & Asset Sales		Base LTFP	+ 1% Interest	Base Rate

ars of the Plan as interest is generated on external grants such as the Stronger Communities Fund and Development Contributions on hand. The additional investment income decreases in later year as these restricted funds are forecasted to be expended on capital works.

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There is an average budget deficit of (\$2.072M) per year compared with (\$3.096M) in Council's base LTFP.

Cash budget surplus/(deficit)

(signed in a software in the s										
	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32
Base LTFP	\$0.423M	\$1.045M	(\$1.610M)	(\$2.310M)	(\$5.041M)	(\$3.969M)	(\$4.644M)	(\$3.405M)	(\$5.363M)	(\$6.087M)
+ 1% Interest Base Rate	\$0.988M	\$2.444M	(\$0.438M)	(\$1.260M)	(\$4.032M)	(\$2.960M)	(\$3.635M)	(\$2.396M)	(\$4.354M)	(\$5.078M)

Investment returns in the forecast budget are less than in the Income Statement as interest earned on restricted reserves such as the Stronger Community Fund and Development Contributions is returned to these restricted assets and is not part of Council's general fund result. The Sensitivity Analysis demonstrates that even in the event of greater investment returns than forecast Council's long term financial sustainability is below the acceptable level and further action is required.

General Meeting 11 May 2022

The impact of the NSW Government's boundary adjustment in 2016 internal and external factors, notably a \$1 million increase in the Emergency Services Levy payable to the NSW State Government and a decline in the increases in the wages price index and consumer price index. The forecast deficits are also accelerated by the impact of the 0.7% rate peg in 2022/23, an of other interest base rate set by the Reserve Bank of Australia from 1.5% to 0.1%, which has significantly reduced retums on Council's investment portfolio. Forecast deficits are expected to increase in future years because Council's income is expected to grow at a slower rate than expenditure because of forecast increase in employee superannuation payments from 10% to 12% and the need to allocate additional funding to maintain Council's assets in a satisfactory resulted in a one off significant reduction in Hornsby Council's current operating capacity. Since then, results have continued to decline because Key financial indicators are below acceptable levels in Council's base case LTFP. condition, including allocating recurrent budgets for major projects once completed.

It is noted that an approval by the IPART for an ongoing 2.28% rate increase for 2022/23 would assist temporarily in generating an Income Statement surplus until 2024/25. This is exclusive of meeting asset management requirements and for the remainder of the Plan will result in ongoing Income Statement deficits

It is this reduced financial ability into the future that will now limit council in a number of ways:

5. Normal Operations

There is insufficient capacity within the LTFP to fund the continuance of normal operations into the future. Additional funding must be identified to fund forecast deficits or services may need to be reduced to ensure a balanced budget each year

Asset Management

There is insufficient capacity within the LTFP to fund the requirements identified in Council's Asset Management plans to maintain assets in a satisfactory condition. As a result, the condition of Council's assets is expected to decline, and the level of infrastructure backlog will increase unless funding is identified. Ŋ

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ATTACHMENT 1 -

The funding available for the redevelopment of the Hornsby Quarry, dubbed by many as the future 'Centennial Park of the North', will be limited to the funds that have been set aside for this project as part of the NSW Government's 'Stronger Community Funds'. Increased community expectations around the scope of this project will need to be limited to the amount that has been set aside in this restricted asset account with acknowledgement that the full scope of works identified in the Master Plan cannot currently be completed

The preference made by the previous Council to progress Hornsby Park instead of Westleigh Park should also be communicated as there is insufficient capacity within the LTFP to fund the ongoing recurrent costs of both sites. Because of the significant level of financial risk from undertaking projects of this size any works at Westleigh Park should not commence until after the completion of Hornsby Park, should funding become available.

Strategic Initiatives

consultation is required to prioritise the initiatives identified and test the community support to pay for initiatives through a special rate variation. The funding of recurrent services and asset management requirements should be prioritised above new initiatives. Council should also consider whether there is value in There is insufficient capacity within the LTFP to fund the initiatives identified across Council's recently adopted strategic and technical documents. Community creating any further new strategies given the quantum of unfunded initiatives in the existing documents.

Action to Improve Future Direction

Future operating capacity is below acceptable levels, and it must be improved to ensure recurrent services can be provided into the future including the need to provide sufficient funding to maintain Council's assets in a satisfactory condition. The following is recommended:

- Continue with Council's application to IPART for a 2.28% additional special rate variation on a permanent basis for 2022/23 •
- Consider a further special rate variation to rebalance Council's finances within acceptable levels over the long term. Priority should be given to meeting asset management requirements and ensuring there is sufficient funding for recurrent services. A special rate variation is recommended in the first instance because of the quantum of funds required to provide balanced budgets. However, other funding initiatives such as the generation of additional ncome from increases to user fees and charges could be explored to potentially reduce the size of a special rate variation required •
 - Undertake community consultation with regards to the unfunded initiatives identified within Council's recently adopted Strategic and Technical documents. The consultation should assess the appetite of the community for a further rate rise to pay for initiatives and establish priorities
- Council should carefully assess whether there is value in creating any further strategic documents given unfunded initiatives in existing documents require at least \$8.8 million of funding (based on preliminary costing for 50% of the actions identified only). •
- To mitigate financial risk works at Westleigh Park should not be undertaken until it is financially appropriate to commence. The development of Westleigh Continue with the previously agreed position to develop Hornsby Park ahead of Westleigh Park including reinforcing this messaging to the community. Park also requires a recurrent budget for operations and asset maintenance and renewal expenditure to be identified.
 - Communicate the scope of works that can realistically be completed at Hornsby Park based on the available budget to the community and how this differs to the full scope of the master plan.
- recurrent costs from any new capital that is not already included in the LTFP. It may be financially prudent to decline capital grant funding depending on whether an evidence-based need for the project exists within Council's strategic documents and subject to the availability of budgets to fund recurrent Carefully consider the acceptance of further external grants for capital purposes. There is insufficient capacity within the LTFP to fund the associated •

costs

•	Review other income streams such as fees and charges to ensure appropriate price setting and assess whether price increases could be used to generate additional income.
•	Apply a freeze to Council's approved Full Time Equivalent headcount where appropriate; with no new positions to be created unless offset by an
	equivalent position elsewhere.
•	Maintain cost increases to modest levels in regards to non-labour related expenses each year.
•	Continuance of financial improvement initiatives (the development of business improvement plans)
•	Consider whether there is a case to rationalise underutilised assets to reduce ongoing cost requirements and/or provide one off capital funding from sale
	proceeds towards other capital investment decisions.
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ATTACHMENT 1 -



Asset Management

Strategy

2022/23 to 2031/32

General Meeting 11 May 2022

DRAFT April 2022

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Docume	nt Control	Asset Management Strategy			
Rev No	Date	Revision Details	Author	Reviewer	Approve
1	13/04/2021	For review	AZ	MH	DC

This document has been compiled by Council's Financial Services Branch.

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EXECUTIVE SUMMARY

Homsby Shire Council delivers a wide range of services to the community, many of which depend on the assets we own and maintain. Asset management is a whole of life approach – from acquiring new assets or replacing old assets, maintaining existing assets and disposing of assets at the end of their life.

This Asset Management Strategy details Council's approach to managing our asset base and our assessment of the ongoing costs to ensure that our assets remain at a standard which meets the needs of our community.

OUR CURRENT ASSET BASE

The gross carrying amount and written down value (WDV) of our assets is reported each year in our General Purpose and Special Purpose Financial Statements and Associated Special Schedules. At 30 June 2021 the values reported for our depreciable infrastructure assets were:

Infrastructure asset category	Gross carrying amount (cost) \$'000	Net carrying amount (WDV) \$'000
Buildings	210,909	132,572
Drainage	538,005	418,718
Other structures	28,609	15,432
Roads and transport assets	462,047	366,456

Our two largest asset categories are:

- Drainage this includes stormwater pits and pipes, concrete box culverts, lined and unlined open channels and outlet structures; and
- Roads and transport assets this includes sealed and unsealed road pavements, footpaths, shared paths, cycleways, kerb, gutter, bridges and road culverts.

OUR ASSESSMENT & FUNDING REQUIREMENTS

To assess the cost of maintaining our depreciable infrastructure asset base we have separated our assets into four categories – buildings, drainage, open spaces and roads and transport assets. For each of these categories we have collated data on the assets we own and have engaged external contractors to assist in verifying the accuracy of our data. Further details on this are included in Section 3 below.

Using this data we have calculated the expected costs to maintain our assets to a satisfactory standard over the next 10 years and compared this to recurrent budget funding allocations. This has resulted in a funding gap across all four asset categories.

Table 4.1 in Section 4 of the report below shows that after factoring in all funding requirements and available budgets the average annual shortfall remaining is \$3.2 million per year.

Asset Management Strategy April 2022

In order to maintain our asset base to a sufficient standard it is recommended that additional funding be allocated in the long-term financial plan to cover the funding shortfalls identified.

The consequences of inadequate funding being allocated are:

- Deteriorating quality of existing assets (e.g.: reduction in road network condition);
- · Inability to renew ageing assets;
- Inability to adequately maintain newly constructed assets; and
- Increased exposure of Council to litigation relating to deteriorating assets.

Asset Management Strategy April 2022

1. STRATEGY OBJECTIVES

1.1. OVERVIEW

Council's Asset Management Strategy forms part of the overall Asset Management Framework:

- ASSET MANAGEMENT POLICY Positioning statement that Council intends to manage its assets in a physical and financially sustainable manner
- ASSET MANAGEMENT STRATEGY This document how Council intends to develop specific Asset Management Plans (AMP's) for each Asset Class and how this aligns with our goals and values.
- ASSET MANAGEMENT PLAN(S) (AMP) A document which details Council's physical and financial management of its assets.

The Policy provides the:	WHY
The Strategy provides the:	ноw
The Plans provide the:	WHAT

1.2. LEGISLATIVE REQUIREMENTS

This document has been developed in accordance with the guidelines contained within the Integrated Planning & Reporting Handbook for Local Councils in NSW issued by the Office of Local Government in September 2021.

1.3. STRATEGIC & CORPORATE GOALS

The Strategy is to reinforce that each asset management document is to be prepared, reviewed, and updated under the direction of Hornsby Shire Council's core set of values:

SERVICE - We provide a helpful and efficient service. We are local and know the neighbourhood.

TRUST - We are fair and reasonable. We are mindful of the best interests of all stakeholders in the decisions we make.

RESPECT - We listen and encourage open and transparent communication. We are respectful of all views.

INNOVATION - We are resourceful and incorporate sustainable work practices. We seek to be innovative and to do things better across all facets of Council's operations.

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2. LEVELS OF SERVICE

Levels of Service refer to the definition of benchmarks that Council aims to achieve for the delivery of services and the ongoing performance of assets.

2.1. COMMUNITY LEVELS OF SERVICE

Assets provided by Council are designed and funded to meet a defined level of demand and/or need of the community.

Community Levels of Service represent the prioritised needs and desires of the Community, as defined by the community itself through regular interaction and survey. Engagement of the community seeks to determine for each Asset Class/Type:

QUALITY	How good is the service/asset what is the condition or quality of the service?
FUNCTION	Is it suitable for its intended purpose Is it the right service?
CAPACITY/USE	Is the service over or under used do we need more or less of these assets?

The AMP for each Asset Class is to state the Community Levels of Service for the Asset Class as a whole or each Asset Type as defined through Council's most current engagement with the community regarding the provision and maintenance of services/assets by Council to the Community.

The most recent engagement by Council with the community regarding the service provision of assets is:

Hornsby Shire Council – Asset Management Community Insights Report (URBIS November 2020);

Where additional information is required to assist with the definition of Community level of service or service provision is required, further reports/documentation that include community consultation may be referred to such as:

- "Your Vision, Your Future" Hornsby Shire Community Strategic Plan 2018-2028 (engagement: Oct/Nov 2017);
- Disability Inclusion Action Plan (DIAP) (engagement: June 2017);
- Hornsby Snapshot Findings and Future Planning for Hornsby Community Plan (engagement: June 2016);
- Active Living Homsby Strategy (engagement: August 2015);
- Asset Management Community Insights Report November 2020;
- Community Satisfaction Survey Report July 2021

Customer levels of service are subjective and can be qualitatively monitored through structured community engagement and/or measurement of less formal community contact with Council (for example CRM's, emails, social media comments, etc).

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2.2. TECHNICAL LEVELS OF SERVICE

Technical Levels of Service are operational or technical measures of performance and support the achievement of the customer service levels. These technical measures relate to the allocation of resources to service activities to best achieve the desired customer outcomes and demonstrate effective performance.

Technical service measures are linked to the activities and annual budgets covering:

- **Operations** the regular activities to provide services (e.g. opening hours, cleansing, mowing grass, energy, inspections, etc);
- Maintenance the activities necessary to retain an asset as near as practicable to an appropriate service condition. Maintenance activities enable an asset to provide service for its planned life (e.g. road patching, unsealed road grading, building and structure repairs);
- **Renewal** the activities that return the service capability of an asset up to that which it had originally (e.g. road resurfacing and pavement reconstruction, pipeline replacement and building component replacement); and
- **Upgrade/New ("Acquisition")** the activities to provide a higher level of service (e.g. widening a road, sealing an unsealed road, replacing a pipeline with a larger size) or a new service that did not exist previously (e.g. a new library).

Service Managers and Asset Custodians are required to plan, implement and control technical service levels to influence the customer service levels. Since the adoption in 2020 of the Asset Management Roles & Responsibilities Determination there has been significant impact on responsibilities for the operation, maintenance and renewal of asset sub-types. As a result, Asset Custodians are required to collaborate with Service Managers to review the measurement and reporting of both Customer and Technical levels of service which are appropriate for differing asset sub-types.

Technical Levels of Service, where able, are to be defined in the AMP for each Asset Class however care should be taken to determine qualitative characteristics of asset/service delivery that are:

- · Able to be clearly identified and measured;
- · Meaningful for the measurement of asset/service performance;
- · Less susceptible to distortion from events outside Council's control.

Asset Management Strategy April 2022

3. CURRENT STATE OF INFRASTRUCTURE

3.1. ASSET CLASS: BUILDINGS

3.1.1. PHYSICAL INDICATORS

Council owns buildings for various purposes including:

- Aquatic centres;
- Community centres;
- Libraries;
- Council offices;
- Rural Fire Service stations/structures; and
- Commercial and residential properties leased out to tenants.

Council uses the AssetFuture system to record and track the maintenance requirements of our buildings portfolio. In early 2021 external contractors were engaged to validate the maintenance data recorded in the AssetFuture system for a selection of Councils highest value buildings. This assessment showed that our maintenance data within AssetFuture is reliable and correlated with the data collected by the external contractors.

This compares favourably to work performed in 2013 by external consultants Morrison Low who undertook a review of Council's asset management knowledge, policies, and practices in accordance with Office of Local Government guidelines. At that time, Council achieved a rating of "C" indicating a "Core" level of overall asset planning and management. In 2015, Morrison Low again reviewed Council's progression towards developing a more mature approach to asset management, with Council achieving a "B", or "Advanced" level of overall asset management maturity.

The validation of maintenance data recorded within AssetFuture demonstrates our progress in advancing our asset management maturity through improved maintenance management and data reconciliation.

Figure 3.1.1 below shows the condition of Councils building portfolio. A condition rating of 1 equates to a building in excellent condition with no repairs or maintenance required whilst a condition rating of 5 equates to a building in very poor condition where replacement is required. The table shows that most of our buildings are current rated a 3 or better with a very small number of buildings rated below this. A score of 3 equates to a building in fair condition with some repairs required.

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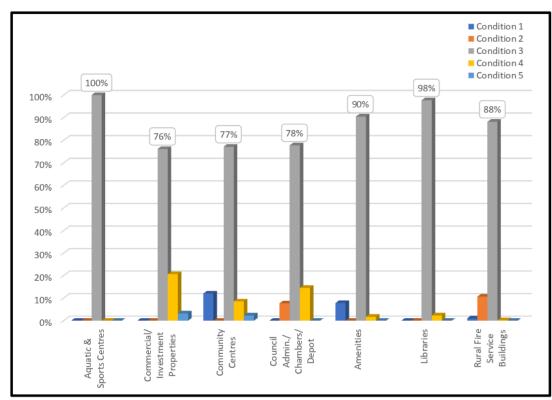


FIGURE 3.1.1: BUILDINGS- CONDITION PROFILE

It has been noted in community surveys that a key area of interest to the community are our amenity buildings located in parks and other outdoor locations. It is recommended that going forward a strategy be developed for amenity buildings and additional data collected to ascertain their current condition and the cost required to meet community expectations.

3.1.2. FINANCIAL POSITION

Table 3.1 below shows our assessment of the costs required to maintain our building portfolio as well as the amount of funds available to cover these costs in our budget. Due to the nature of the projected maintenance, renewal and replacement process in the buildings AssetFuture system; the expenditure profile exhibits troughs and peaks, however current funding levels in Council's long term financial plan are not sufficient to maintain required service levels.

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TABLE 3.1:		BUILDINGS ASSET CLASS – 22/23 TO 31/32 PROJECTIONS												
Year	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32				
Budget (\$'000)	\$3,071	\$3,153	\$3, 238	\$3,464	\$3,554	\$3,644	\$3,739	\$3,836	\$3,935	\$4,036				
Operations	\$261	\$342	\$311	\$282	\$344	\$466	\$462	\$320	\$407	\$407				
Maintenance	\$1,888	\$2,126	\$2,048	\$2,626	\$2,810	\$3,166	\$3,167	\$2,775	\$3,053	\$3,053				
Renewal	\$2,491	\$3,061	\$2,841	\$2,640	\$3,074	\$3,936	\$3,910	\$2,905	\$3,521	\$3,622				
Acquisition	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0				
Forecast Exp. (\$'000)	\$4,640	\$5,529	\$5, 200	\$5,548	\$6,228	\$7,568	\$7,539	\$6,000	\$6,981	\$7,082				
Surplus/Shortfall (\$'000):	-\$1,569	-\$2,376	-\$1,962	-\$2,084	-\$2,674	-\$3,924	-\$3,800	-\$2,164	-\$3,046	-\$3,046				
	Average Annual Funding Shortfall of ('000):													

Whilst difficult to quantify we also expect extreme weather events to increase the ongoing maintenance cost of our building's assets to cover the costs of remediating damaged assets. These type of weather events may also shift community expectations and result in the expectation of increased service standards.

Asset Management Strategy April 2022

3.2. ASSET CLASS: OPEN SPACES

3.2.1. PHYSICAL INDICATORS

Hornsby operates over 180 different open-space locations across the Shire for use by residents and visitors for both formal and informal recreational pursuits. These sites range from small pocket parks with play equipment to specialist sporting precincts. Of the approximately 8000 assets, this includes:

- More than 700 park benches/seats;
- Over 50 BBQ's with or without enclosures;
- · More than 300 pieces of playground equipment; and
- 7 flagpoles.

Council's Parks and Recreation database of Open Space assets were assessed by external contractors in 2021 by way of a physical asset inspection. The resultant data was processed in conjunction with prior datasets (collected in 2010 in 2015) and showed an improvement in overall average asset condition across all types of parks/open space.

Figure 3.2.1 shows that over 80% of our assets were assessed as either a condition 2 or 3, with less than 10% considered to be in a poor or failed condition.

Future maintenance costs are expected to increase as new assets are created and as the cost of materials and labour rise.

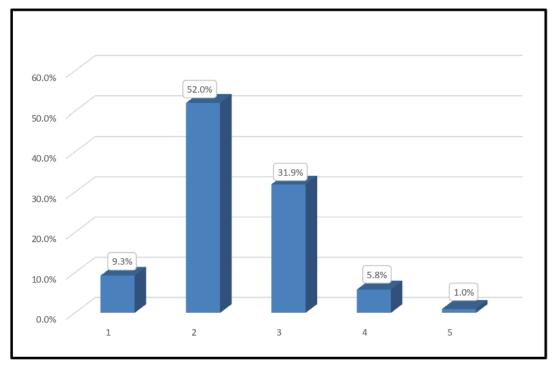


FIGURE 3.2.1: OPEN SPACE ASSETS - CONDITION PROFILE

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3.2.1. FINANCIAL POSITION

Table 3.2 below highlights that due to a significant number of open space assets being created as part of the Section 7.11 projects, there is a significantly increasing maintenance cost associated with these new assets. Current funding levels in Council's long term financial plan are not sufficient to maintain required service levels.

TABLE 3.2 :		OPEN SPACE ASSET CLASS – 22/23 TO 31/32 PROJECTIONS												
Year	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32				
Budget (\$'000)	\$6,670	\$6,680	\$6,700	\$6,700	\$7,400	\$7,400	\$7,400	\$7,420	\$7,430	\$7,430				
Operations	\$5,396	\$5,459	\$5,627	\$4,991	\$6,996	\$4,019	\$5,442	\$5,631	\$5,841	\$5,523				
Maintenance	\$697	\$741	\$697	\$990	\$1,357	\$686	\$1,094	\$1,115	\$1,280	\$1,244				
Renewal	\$957	\$921	\$1,117	\$1,340	\$1,387	\$2,916	\$1,064	\$1,035	\$1,110	\$1,464				
Acquisition	\$220	\$220	\$220	\$220	\$220	\$210	\$220	\$220	\$220	\$220				
Forecast Exp. (\$'000)	\$7,270	\$7,340	\$7,660	\$7,540	\$9,960	\$7,830	\$7,820	\$8,000	\$8,450	\$8,450				
Surplus/Shortfall (\$'000):	-\$600	-\$660	-\$960	-\$840	-\$2,560	-\$430	-\$420	-\$580	-\$1,020	-\$1,020				
	-\$9	09												

Whilst difficult to quantify we also expect extreme weather events to increase the ongoing maintenance cost of our open space assets to cover the costs of remediating damaged assets. These type of weather events may also shift community expectations and result in the expectation of increased service standards.

Asset Management Strategy April 2022

3.3. ASSET CLASS: ROADS & ROAD INFRASTRUCTURE

3.3.1. PHYSICAL INDICATORS

Based on data held in Council's asset register, the assets covered in this category include:

- 575km of sealed road pavement;
- 28km of unsealed road;
- 3km of dedicated cycleway;
- 390km of footpaths;
- Over 760km of constructed kerb & gutter;
- Over 15,000m2 of public car park; and
- 44 separate road bridge structures (including multi-cell road culverts).

Sealed roads represent the largest of the above asset categories by value. The condition of sealed roads is determined within the SMEC Pavement Management System via the production of a Pavement Condition Index (PCI) per segment of road. The PCI is calculated using physical parameters of the road surface as measured via independent contractors on a four-year rolling inspection program. Council is targeting an average PCI across the network of 8.2. Based on the most recent condition data held in the SMEC system, the network average PCI is shown in Figure 3.3.1 below:

FIGURE 3.3.1: SEALED ROADS - CONDITION PROFILE

Road Classification	Length (km)	Average PCI	Length-Weighted Average Network PCI
Sub-arterial	39.83	7.65	
Collector	49.03	8.05	8.17
Principal Local	108.29	7.84	(8.2)
Local	377.92	8.34	

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3.3.2. FINANCIAL POSITION

Table 3.3 below shows our assessment of the costs required to maintain all assets within our roads category as well as the amount of funds available to cover these costs in our budget. Current funding levels in Council's long term financial plan are not sufficient to maintain required service levels.

Year	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32		
Budget (\$'000)	\$9,520	\$9,540	\$9,570	\$10,090	\$10,110	\$10,150	\$10,160	\$10,190	\$10,220	\$10,220		
Operations	\$370	\$370	\$370	\$370	\$370	\$370	\$370	\$370	\$370	\$370		
Maintenance	\$1,814	\$1,824	\$1,864	\$2,794	\$2,824	\$2,854	\$2,874	\$2,894	\$2,934	\$2,944		
Renewal	\$6,660	\$6,660	\$6,660	\$6,670	\$6,670	\$6,670	\$6,670	\$6,670	\$6,670	\$6,660		
Acquisition	\$1,316	\$1,316	\$1,316	\$1,316	\$1,316	\$1,316	\$1,316	\$1,316	\$1,316	\$1,316		
Forecast Exp. (\$'000)	\$10,160	\$10,170	\$10,210	\$11,150	\$11,180	\$11,210	\$11,230	\$11,250	\$11,290	\$11,290		
Surplus/Shortfall (\$'000):	-\$640	-\$630	-\$640	-\$1,060	-\$1,070	-\$1,060	-\$1,070	-\$1,060	-\$1,070	-\$1,070		
	Average Annual Funding Shortfall of ('000):											

TABLE 3.3: ROADS ASSET CLASS – 22/23 TO 31/32 PROJECTIONS

It is noted that the PCI rating shown in Figure 3.3.1 shows that our road assets are currently meeting our target rating of 8.2. Whilst this target is being met a funding shortfall into the future has been identified due to the creation of new assets and future costs increases.

Whilst difficult to quantify we also expect extreme weather events to increase the ongoing maintenance cost of our road assets to cover the costs of remediating damaged assets. These type of weather events may also shift community expectations and result in the expectation of increased service standards.

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3.4. ASSET CLASS: STORMWATER DRAINAGE

3.4.1. PHYSICAL INDICATORS

The Drainage infrastructure asset class comprises a significant proportion of Council's overall asset portfolio by value. Drainage assets are generally underground in stable environments and as such are generally long-life assets, ranging from 50 to 150 years. Asset within the class include:

- Over 300km of concrete pipes and box culverts;
- Over 15km of open channels (earthen/concrete lined); and
- Over 18,500 individual pits and outlet structures (headwalls)

Drainage infrastructure is constructed to manage the flow of stormwater through both public and private property, usually discharging to natural creek lines and receiving waters. It is constructed within discrete "catchments" that are defined by topography, with water flowing from crests towards the outlet, or lowest point, of the catchment. These may then be divided further into sub-catchments which aggregate to form the overall catchment. Flows do not naturally pass between sub-catchments except to add flows to the "downstream catchment" at the outlet.

The pipe/culvert network are buried assets and similarly pits are often accessible through only a small opening and may be located in a hazardous environment for inspection access (e.g. roadside). All the constructed network, with the exception of open channels, are considered "confined spaces", with special requirements for access and inspections.

A large-scale identification of stormwater drainage infrastructure assets was undertaken by Council in the mid- to late- 1990's. This included the identification of attributes such as pit/pipe size, material type, connections, condition, and depth to invert (base of pit or internal base of pipe/culvert). Since the completion of this initial data collection project, Council has attempted, as funds are available, to continue a rolling program of re-survey and condition inspection of stormwater assets across the 12 major catchments/40 sub-catchments in the Shire. To increase the level of asset maturity in determining future drainage requirements it is recommended that that additional funding is allocated for a regular rolling CCTV inspection program of the network.

Figure 3.4.1 below shows the current condition data from the PipePak system. A rating of 1 indicates excellent or very good condition whilst a rating of 5 indicates very poor condition. It is noted that work is being undertaken in the development of an Overland Flood Risk Management Strategy that may seek additional funding in respect to increasing drainage capacity. The outcomes from this strategy will be need to be considered in a future revision of the Asset Management Strategy.

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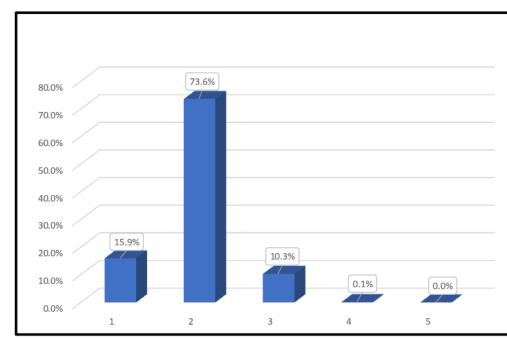


FIGURE 3.4.1: STORMWATER DRAINAGE ASSETS - CONDITION PROFILE

3.4.2. FINANCIAL POSITION

Figures 3.4.2 and 3.4.3 below show a shortfall in funding across each of the forecast years. Included within the required funding amount is an average of \$1.1m per year for capital works. Drainage projects are generally large-scale costly projects and as such the expectation is that this annual amount of \$1.1m will accrue each year so enough funding is available when large projects arise. Current funding levels in Council's long term financial plan are not sufficient to maintain required service levels.



FIGURE 3.4.2: STORMWATER DRAINAGE - ALL ASSETS -EXPENDITURE PROFILE

STORMWATER DRAINAGE - 22/23 TO 31/32 PROJECTIONS

Year	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	
Budget (\$'000)	\$2,840	\$2,850	\$2,860	\$3,010	\$3,010	\$3,020	\$3,030	\$3,040	\$3,050	\$3,050	
Operations	\$190	\$190	\$190	\$190	\$190	\$190	\$190	\$190	\$190	\$190	
Maintenance	\$850	\$870	\$880	\$1,180	\$1,190	\$1,210	\$1,220	\$1,240	\$1,250	\$1,270	
Renewal	\$2,080	\$2,080	\$2,080	\$2,080	\$2,080	\$2,080	\$2,080	\$2,080	\$2,080	\$2,060	
Acquisition	\$760	\$760	\$760	\$760	\$760	\$760	\$760	\$760	\$760	\$760	
Forecast Exp. (\$'000)	\$3,880	\$3,900	\$3,910	\$4,210	\$4,220	\$4,240	\$4,250	\$4,270	\$4,280	\$4,280	
Surplus/Shortfall (\$'000):	-\$1,040	-\$1,050	-\$1,050	-\$1,200	-\$1,210	-\$1,220	-\$1,220	-\$1,230	-\$1,230	-\$1,230	
	Average Annual Funding Shortfall of ('000):										

Whilst difficult to quantify we also expect extreme weather events to increase the ongoing maintenance cost of our drainage assets to cover the costs of remediating damaged assets. These type of weather events may also shift community expectations and result in the expectation of increased service standards.

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TABLE 3.4.3:

4. FUNDING THROUGH THE LONG-TERM FINANCIAL PLAN

4.1. FORECAST METHODOLOGY

The four major asset management plans are to take a "bottom-up" approach to their development and forecasting. That is, the physical datasets are to be interrogated and, where able, given to external contractors for verification in the field. Based on the current condition, the needs of each asset class/type are to be estimated over the 10-year long term financial plan timeframe.

As discussed in section 3 above we have improved our processes around asset data collection as well as maintenance and condition reporting. A selection of this data has been validation by external contractors which increases our confidence in the long-term prediction of funding requirements to achieve and maintain the required levels of service for our asset classes.

Changes due to the adoption of the Asset Management – Roles & Responsibilities Determination have had an impact on the completeness of the data set held with SMEC. Meaningful forward works programs will not be able to be undertaken until a full reconciliation and additional survey for full confirmation of Council's full asset base has occurred.

Total asset values are forecast to increase as additional assets are added into service.

Additional assets will generally add to the operations and maintenance needs in the longer term, as well as the need for future renewal. Additional assets will also add to future depreciation forecasts.

4.2. CONSOLIDATED OUTLOOK

Council has on average **\$2,480,000** of funds allocated specifically for asset management needs on top of the recurrent budget allocations for each asset class (primarily maintenance, renewal and acquisition identified across all asset classes). This amount of funding remains available for similar purposes in the long term financial plan. **Table 4.1**, below, shows the forecast difference between asset management funding needs, as identified across four major Asset Classes in **Section 3**, and the available funding:

Asset Management Strategy April 2022

Year	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32			
Funding Available ('00	nding Available ('000)												
Available Asset Funding	\$2,480	\$2,480	\$2,480	\$2,480	\$2,480	\$2,480	\$2,480	\$2,480	\$2,480	\$2,480			
Surplus/Shortfall ('000)												
Buildings	-\$1,569	-\$2,376	-\$1,961	-\$2,084	-\$2,674	-\$3,924	-\$3,800	-\$2,164	-\$3,046	-\$3,046			
Roads & Road Infrastructure	-\$640	-\$630	-\$640	-\$1,060	-\$1,070	-\$1,060	-\$1,070	-\$1,060	-\$1,070	-\$1,070			
Stormwater Drainage	-\$1,040	-\$1,050	-\$1,050	-\$1,200	-\$1,210	-\$1,220	-\$1,220	-\$1,230	-\$1,230	-\$1,230			
Open Space & Land Improvements	-\$600	-\$660	-\$960	-\$840	-\$2,560	-\$430	-\$420	-\$580	-\$1,020	-\$1,020			
Sub-Total ('000)	-\$3,849	-\$4,716	-\$4,612	-\$5,184	-\$7,514	-\$6,634	-\$6,510	-\$5,034	-\$6,366	-\$6,366			
TOTAL	-\$1,369	-\$2,236	-\$2,131	-\$2,704	-\$5,034	-\$4,154	-\$4,030	-\$2,554	-\$3,886	-\$3,886			
Surplus/Shortfall	-91,303	-92,230	- 42, 131	-92,704	-\$5,054	-94,134	-\$4,030	-92,554	-\$5,000	-\$3,000			
		1		Av	erage Ann	ual Fundin	g Shortfall	of ('000):	-\$3,	198			

TABLE 4.1: AVALIABLE ASSET FUNDING VS FUNDING NEEDS – 22/23 TO 31/32

 Table 4.3 highlights that, when additional currently known asset-based funding needs are taken into account, there exists a deficit (shortfall) of over \$3.2m per year on average over the long term financial plan between FY22/23 and FY31/32. This represents approximately just over 0.1% of the gross replacement cost of Council's asset base of approximately \$2b.

4.3. RECOMMENDED FUNDING APPROACH

Section 3 above highlights increasing maintenance costs from an expanding asset base whilst Section 4 above identifies funding shortfalls over the next 10 years. Given this, prudence is recommended in the decision to either:

- · Increase the current asset base beyond that currently predicted, and/or
- Increase Levels of Service for current assets, incurring additional maintenance/operational/renewal financial requirements.

In order to maintain our asset base to a sufficient standard it is recommended that additional funding be allocated in the long-term financial plan to cover the funding shortfalls identified. Funding should be allocated to existing assets first before creating and maintaining new assets.

It is noted our base case LTFP has been prepared assuming a rate peg of 0.7% for 2022/23. A separate scenario has also been calculated using a rate increase of 2.28% being the rate Council has sought from the Independent Pricing and Regulatory Tribunal in an application that is being assessed at the time of writing this report. Under both of these scenarios we are unable to address the funding gap identified. In order to meet this shortfall Council will be required to generate additional funding such as through a future special rate variation as recommended in the LTFP.

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4.4. CONSEQUENCES

Our present funding levels are insufficient to continue to provide growth in services at current levels of service over the long term. The main consequences of inadequate funding beyond the current planning horizon are:

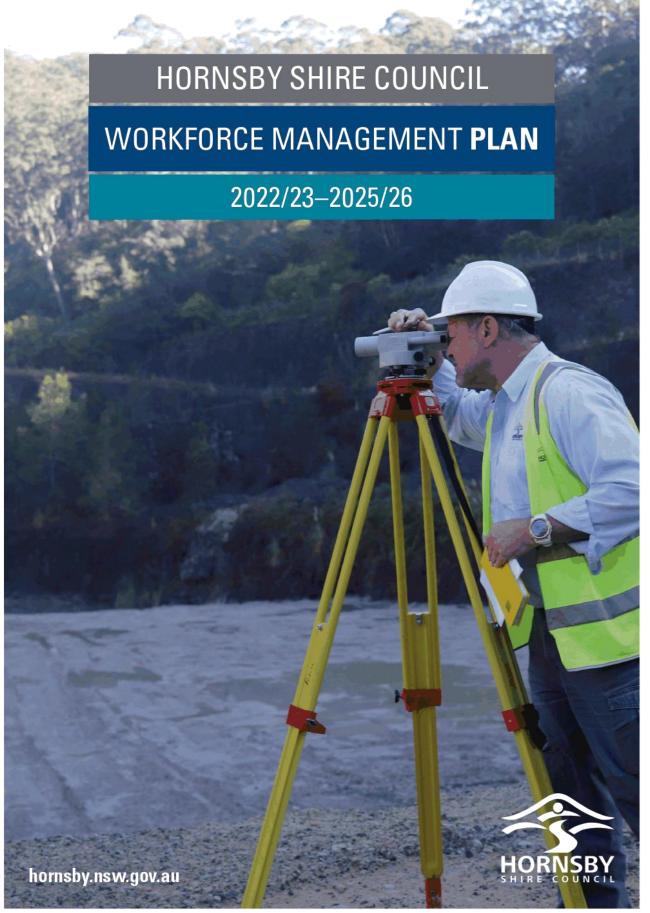
- Deteriorating quality of existing assets (e.g.: reduction in road network condition);
- Inability to renew ageing assets;
- · Inability to adequately maintain newly constructed assets; and
- Increased exposure of Council to litigation relating to deteriorating assets.

As noted in 4.3 above in order to maintain our asset base to a sufficient standard it is recommended that additional funding be allocated in the long-term financial plan to cover the funding shortfalls identified.

Council's infrastructure asset ratios over the next ten years have been forecast as part of the LTFP. Each ratio will fall below acceptable levels if the funding gap identified in this strategy is not addressed:

Indicator	Benchmark	22/23	23/24	24/25	25/26	26/27	27/28	28/29	29/30	30/31	31/32
Asset Maintenance Ratio	≻100%	72.21%	73.21%	72.02%	74.43%	76.46%	77.74%	77.87%	76.46%	77.74%	77.74%
Asset Renewals Ratio	>100%	87.64%	86.24%	84.85%	83.49%	82.15%	80.84%	79.54%	78.27%	77.01%	75.78%
Infrastructure Backlog Ratio	<2%	1.54%	1.75%	1.96%	2.22%	2.71%	3.11%	3.50%	3.76%	4.14%	4.52%

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Acknowledgement of Country

We acknowledge the Traditional Custodians of this land, the Darug and GuriNgai peoples, and pay respect to their Ancestors and Elders past and present and to their Heritage. We acknowledge and uphold their intrinsic connections and continuing relationships to Country.

Foreword

The last two years have seen unprecedented change for workplaces everywhere, and local government is no exception. We've experienced the sudden shift to working from home full-time for many of our people due to necessity, and now the return to a hybrid office/working from home model for the flexibility in our work life balance we all value.

The effects of the pandemic and rapid change have also significantly impacted our customer-facing and field-based teams.

More than ever, it is important we plan for our future workforce. This transformational plan seeks to support Council in addressing the needs of our community over the next four years, by guiding our approach to recruitment, development and retention of a high performing workforce.

While it is a legislative requirement and an important element in delivering Council's Delivery Program and Operational Plan and Community Strategic Plan, it is also our opportunity to articulate our vision for the people we employ and aim to employ in the coming years. We already have great people in our organisation. This plan will support our vision to be a great organisation.

I am grateful to the staff who have helped to develop this plan, and to those who will implement its actions over the coming years.

I'm confident this plan will help guide our future decision making, ensuring that the staff we manage, engage and develop are the very best we need to deliver exceptional service to the Hornsby Shire community.

Steven Head General Manager

1 Our plan for our workforce

The Workforce Management Plan is a mandatory requirement under the Integrated Planning and Reporting (IP&R) framework and is intended to address the human resourcing requirements of Council's Delivery Program.

It has been developed by Hornsby Shire Council to ensure it has the capacity and capability to deliver on its goals and objectives over the coming four years. It takes into account the anticipated workload drivers over this timeframe including the delivery of a number of major works projects and the evolving nature of the work environment in response to the COVID-19 pandemic.

How it was developed

In September 2021, engagement commenced with Council's Executive Committee and managers. The purpose of this engagement was to gain an understanding of Council's strategic direction, workload drivers, capacity and capability gaps and other contextual insights. Industry research and analysis of workforce and demographic data has also informed this process, including consideration of external trends that might affect Council in the next four years.

The Plan was developed via a series of activities:

- One-on-one interviews with Council's Executive Committee
- Workshop with Executive Committee
- One-on-one interviews with managers across Council's five divisions
- Workshop with Executive Committee and managers
- Supply and demand analysis of workforce data
- Assessment of future trends for local government
- Validation workshop with Executive Committee

Feedback, analysis and research has heavily informed the development of this document and ensures that the objectives, actions and measures identified are relevant to Council and reflective of the organisation's current and future operating context.

What it includes

The Plan includes a snapshot of the current workforce, demographics of the Hornsby community and an employment proposition that reflects the workforce Council seeks to retain and attract. It considers external and internal trends and how Council might respond to these drivers of change in the future. The strategic objectives and corresponding actions and measures clearly articulate what is needed to attract and retain the workforce requirements of Council over the next four years. This document excludes processes which are part of HR services, instead identifying a suite of carefully developed strategies that address external pressures and underlying challenges for Council. Alongside the strategic objectives and actions in the Plan, Council will continue to deliver key operational human resource functions, including: performance management, remuneration framework, recruitment, learning and development, health and safety, grievance management, and employee and industrial relations.

How it should be used

The Plan will guide Council's overall approach to recruitment, staff progression and development, and succession planning over the next four years. It is a practical and live document which will be used by all executives, managers and supervisors within Council. The Plan is integrated in the IP&R process, with progress measures drawing on our staff engagement and community satisfaction feedback processes. It should be considered in conjunction with Council's Long Term Financial Plan and Asset Management Plan, that form the overall Resourcing Strategy for Council. Importantly, this document will be regularly monitored and adjusted when required in response to new workforce challenges. L

2 Our values

Our values underpin all that we do; they provide us with a shared vision of who we are and what we stand for as an organisation.

Service

We provide a helpful and efficient service. We are local and know the neighbourhood.

Trust

We are fair and reasonable. We are mindful of the best interest of all stakeholders in the decisions we make.

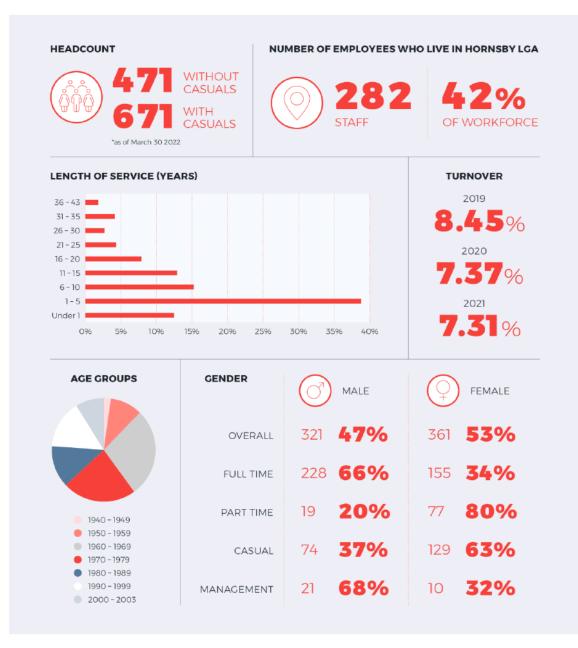
Respect

We listen and encourage open and transparent communication. We are respectful of all views.

Innovative

We are resourceful and incorporate sustainable work practices. We seek to be innovative and do things better across all facets of our operations.

3 Our people



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however with working from home expected to continue there will be increased demand and pressure on local amenities and services spoke a language other than English at home (Mandarin, Cantonese and Korean)

4 Our future

Over the next four years, Council will embark on designing our culture to be an innovative, customer centric organisation prepared to meet the challenges of the future with dynamic and flexible approaches. The following statements were informed by staff feedback as well as research to understand external trends affecting local government.

To respond to the challenges of the future we will:

Deliver sustainable work programs

There is a drive to reconsider how Council services and work programs are delivered and understand how sustainability measures could be incorporated to reduce emissions and environmental impacts. We will play an active role in the transition to net zero and building a more resilient community.

Adopt digital solutions

The pandemic has accelerated the adoption of digital solutions and there are increasing customer expectations around the use of new technologies to create better experiences. Online service delivery and self-service will become standard place so that customers can enjoy the ease and efficiency that the adoption of technology offers.

Embrace new and enhanced skills in the workforce

Automation and digital augmentation will change the nature of work and redefine the composition of the workforce, presenting an important opportunity to innovate and evolve.

Build a capable, fit for purpose workforce

Council is embarking on an exciting period over the next four years and beyond, with some of the largest projects in its history already in the pipeline and a number of new strategies and policies to implement. We will continue to identify skills gaps, up-skill internal staff where appropriate and recruit a capable, fitfor purpose workforce.



Plan for an ageing workforce

The local government workforce is considerably older than the general Australian workforce, with declining participation under 30. We will succession plan, engage future leaders across the organisation and ensure that knowledge and skills-sharing opportunities are embedded in every-day work.

Respond to changing community needs



The area is becoming increasingly diverse with 37 percent of residents born overseas while a growing population is also increasing demand. Council's frontline services will adapt and respond to changing demographics within the community.

Attract and retain the best talent

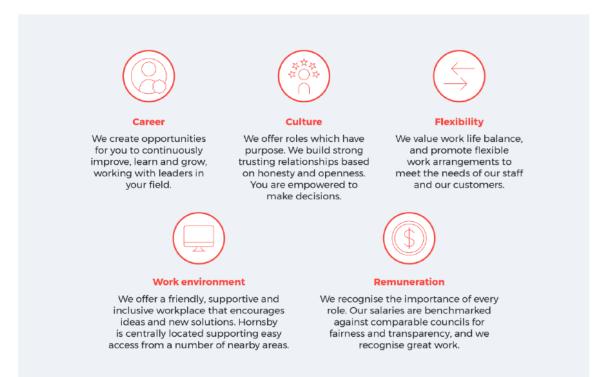
There are certain prominent skills and training gaps facing local government creating a highly competitive recruitment market. We will be clear on our employment proposition, differentiate our organisation for its unique set of values and embrace flexible work approaches to attract and retain the best talent.

Remain flexible and adaptive

Responsibilities of local government will continue to increase as part of a devolution of services from state government, specifically in areas like waste management and community services, circular economy and net zero targets, smart cities, roads and transport infrastructure, natural disaster resilience and pandemic recovery. We will remain flexible and adaptive in response, seeking out innovative approaches and building internal capacity and capability where possible.

5 Our employment proposition

Our greatest strength is our staff. Our employment proposition is what sets Hornsby Shire Council apart and attracts new employees who have goals and values that match those of the organisation.



6 Our strategic objectives

Our strategic objectives have been identified to guide workforce planning at Hornsby Shire Council over the next four years. They reflect the priorities for Council in order to attract and retain the workforce needed to meet the expectations of the community as outlined in the Community Strategic Plan and Delivery Program.

Focus area	Strategic objective
Culture	1. Reaffirm our values and embed the desired workplace culture and behaviours for Hornsby Shire Council
Leadership	2. Enable our leaders to grow a diverse and engaged workforce that meets community and organisational expectations
Workplace flexibility	3. Support a stable work environment that promotes flexibility as a feature of our employment proposition
Customer and community service	4. Champion a customer and community service approach

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7 Our game-changers

For each of our strategic objectives, we have identified high priority actions that go beyond business-as-usual workforce management. These are actions that have been carefully developed in consultation with Council staff to guide our workforce planning over the next four years. Implementation has been phased to reflect the resourcing and capacity of staff to deliver. Measures have been identified to indicate Council's progress in addressing each objective.

1. Culture

Strategic objective: Reaffirm our values and embed the desired workplace culture and behaviours for Hornsby Shire Council

HIGH PRIORTIY ACTIONS	Year	of comn	nencem	nent
1.1 Develop and implement an Organisational Culture Program with results monitored annually				
1.2 Drive a culture of high performance, to support the future workforce and future workplaces of Hornsby Shire Council				
1.3 Embed values and positive behaviours in employment contracts and performance framework				
1.4 Strengthen and promote Employment Proposition to attract and retain talent				

Measurement tools:

- Organisational diagnostics to establish baseline, then annual measurement
- Annual climate and culture survey to measure integration of values, shared language about culture and desired behaviours
- Annual performance review framework to include review and feedback against values and desired behaviours
- Employee engagement surveys

2. Leadership

Strategic objective: Enable our leaders to grow a diverse and engaged workforce that meets community and organisational expectations

HIGH PRIORTIY ACTIONS	Year	of corr	nmence	ement
2.1 Develop Corporate Vision and Strategy to communicate clear directions, galvanise leadership, and provide certainty and accountability				
2.2 Reinvigorate Leadership Development Program to leverage diverse perspectives across the leadership team				
2.3 Develop and implement Talent Management Framework incorporating: career pathways; critical leadership role identification; succession planning; access to leadership development for emerging leaders; tactical recruitment and retention strategies for key roles				
2.4 Implement initiatives that promote workforce diversity and support a positive organisational culture and performance				

Measurement tools:

- Annual 360-degree leadership review
- Progression opportunities identified and implemented year on year
- Employee engagement survey including positive behavioural indicators for leadership and internal customer experience feedback
- Attraction and retention data
- Workforce profile year on year
- Annual performance review framework to include review of succession planning and positive behaviours towards inclusivity

3. Workplace flexibility

Strategic objective: Support a stable work environment that promotes flexibility as a feature of our employment proposition

HIGH PRIORTIY ACTIONS	Year	of con	nmence	ement
3.1 Review flexible work policies to meet staff needs and maintain a high standard of customer experience				
3.2 Develop a change program to support a transition to a new workplace and agile work practices				
3.3 Invest in building digital capabilities to ensure remote access to work platforms and seamless customer experience				

Measurement tools:

- Annual performance review framework to include review and feedback against positive behaviours towards flexible work policies, agile work practices and collaboration
- Employee engagement surveys including perceptions of collaboration
- Customer satisfaction survey (external)
- Customer satisfaction survey (internal)

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4. Customer and community service

Strategic objective: Champion a customer and community service approach				
HIGH PRIORTIY ACTIONS	Year	of com	mence	ment
4.1 Develop and implement a Customer Experience Charter that reflects Council's diverse customers and stakeholders				
4.2 Promote and invest in customer experience behaviour training				
4.3 Review organisational structure that enables best customer and community outcomes (internal and external) *review will happen in year one and three				
4.4 Embed customer experience KPIs in performance management framework				
4.5 Re-invigorate the STRIVE awards to encourage and reward staff-led innovation that improves customer experience and service delivery				
4.6 Promote and invest in community engagement approaches across the organisation				

Measurement tools:

- Annual performance review framework to include review and feedback of positive behaviours towards customer experience, community engagement and innovation
- Employee engagement surveys including internal customer experience feedback and staff perceptions of purpose
- Customer satisfaction survey (external)

8 What success looks like

We will know we're achieving our ambitions under the Plan because our staff are strongly engaged and supported, enjoying a real sense of purpose and connection to Council's direction and objectives. Staff are proud to work at Council and are confident to promote our employment proposition to others. Our leaders role model diverse perspectives to set clear directions for the benefit of the whole organisation, our customers and our community.

We will have elevated attention to culture and values, creating a shared language to make this a regular part of our work environment. We take every opportunity to promote our culture and values, including through staff progression and development, our performance review framework, and our recruitment activities.

We will have crystalised what workplace flexibility means to us, acknowledging that it means different things to different people. We offer tailored options to individuals which reflect their priorities, and our leaders confidently manage the balance between the needs of staff, colleagues, customers and community. Workplace flexibility is one of the top reasons our staff want to stay, and a key driver of successful recruitment.

We will have refreshed our approach to delivering services to our customers and community. We recognise that Council operates in a complex stakeholder environment, and we are adept at managing diverse relationships and the tensions between different interests. We engage with community in new ways, across all parts of the organisation, leading to a richer understanding of community priorities.

NEED HELP?

This document contains important information. If you do not understand it, please call the Translating and Interpreting Service on 131 450. Ask them to phone 9847 6666 on your behalf to contact Hornsby Shire Council. Council's business hours are Monday to Friday, 8.30am-5pm.

Chinese Simplified

需要帮助吗?

本文件包含了重要的信息。如果您有不理解之处,请致电131 450联系翻译与传译服务中心。请他们代您致电 9847 6666联系Hornsby郡议会。郡议会工作时间为周一至周五,早上8:30 - 下午5点。

Chinese Traditional

需要幫助嗎?

本文件包含了重要的信息。如果您有不理解之處,請致電131 450聯繫翻譯與傳譯服務中心。請他們代您致電 9847 6666聯繫Hornsby郡議會。郡議會工作時間爲周一至周五,早上8:30 - 下午5點。

German

Brauchen Sie Hilfe?

Dieses Dokument enthält wichtige Informationen. Wenn Sie es nicht verstehen, rufen Sie bitte den Übersetzer- und Dolmetscherdienst unter 131 450 an. Bitten Sie ihn darum, für Sie den Hornsby Shire Council unter der Nummer 9847 6666 zu kontaktieren. Die Geschäftszeiten der Stadtverwaltung sind Montag bis Freitag, 8.30-17 Uhr.

Hindi

क्या आपको सहायता की आवश्यकता है?

इस दस्तावेज़ में महत्वपूर्ण जानकारी दी गई है। यदि आप इसे समझ न पाएँ, तो कृपया 131 450 पर अनुवाद और दुभाषिया सेवा को कॉल करें। उनसे हॉर्न्सवी शायर काउंसिल से संपर्क करने के लिए आपकी ओर से 9847 6666 पर फोन करने का निवेदन करें। काउंसिल के कार्यकाल का समय सोमवार से शुक्रवार, सुबह 8.30 बजे-शाम 5 वजे तक है।

Korean

도움이 필요하십니까?

본 문서에는 중요한 정보가 포함되어 있습니다. 이해가 되지 않는 내용이 있으시면, 통역번역서비스(Translating and Interpreting Service)로 전화하셔서(131 450번) 귀하를 대신하여 혼즈비 셔 카운슬에 전화(9847 6666번)를 걸어 달라고 요청하십시오. 카운슬의 업무시간은 월요일~금요일 오전 8시 30분~오후 5시입니다.

Tagalog

Kailangan ng tulong?

Itong dokumento ay naglalaman ng mahalagang impormasyon. Kung hindi ninyo naiintindihan, pakitawagan ang Serbisyo sa Pagsasalinwika at Pag-iinterprete (Translating and Interpreting Service) sa 131 450. Hilingin sa kanilang tawagan ang 9847 6666 para sa inyo upang kontakin ang Hornsby Shire Council. Ang oras ng opisina ng Council ay Lunes hanggang Biyernes, 8.30n.u.-5n.h.



Hornsby Shire Council ABN 20 706 996 972

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Visit us

Hornsby Shire Council Administration Centre 296 Peats Ferry Road, Hornsby NSW 2077

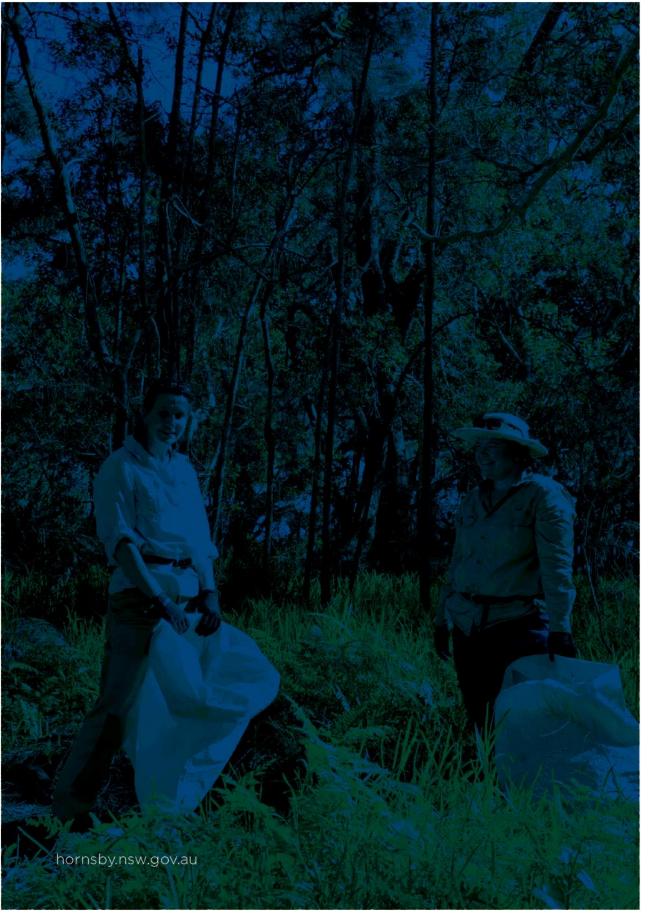
Office hours: Please check the website for the latest opening hours for the Customer Service Centre and Duty Officer.

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ATTACHMENT/S

REPORT NO. PC9/22

ITEM 7

1. ON-SITE SEWAGE MANAGEMENT SYSTEM POLICY 2. ON-SITE SEWAGE MANAGEMENT SYSTEM POLICY -FREQUENTLY ASKED QUESTIONS



POLICY REGISTER

-	
POLICY TITLE:	On-Site Sewage Management System Policy
FOLDER NUMBER:	F2007/00307
POLICY OWNER / DIVISION:	Planning & Compliance
POLICY OWNER / BRANCH:	Regulatory Services
FUNCTION:	Environment
RELEVANT LEGISLATION:	Local Government Act 1993 Local Government (General) Regulation 2021 Protection of the Environment Operations Act 1997
POLICY ADOPTION/AMENDMENT DATE:	REPORT NUMBER:
REVIEW YEAR:	

RELATED POLICIES:

POLICY PURPOSE / OBJECTIVES

- To fulfil Council's regulatory responsibilities under the Local Government Act 1993 in the assessment and approval of licences for the installation and operation of on-site sewage management systems.
- To provide a framework for the licensing of on-site sewage management systems.
- To protect the public from potential impacts associated with on-site sewage management systems.
- To support water quality management, commercial and recreational activities on the waterways, and to prevent the spread of disease, the contamination of waters and soil degradation.

POLICY STATEMENT

- 1. Hornsby Shire Council is committed to providing an integrated approach to on-site sewage management within a framework of community education, water quality monitoring, auditing, and where necessary, the use of regulatory powers by Council.
- 2. Council's On-Site Sewage Management System Policy aims to ensure there is effective management of on-site sewage management systems by:
 - a) Ensuring all on-site sewage management systems in the Shire have the required installation and operating approvals and are operating in accordance with approval conditions
 - b) Ensuring best practice for the installation and operation of on-site sewage management systems
 - c) Progressively eliminating illegal discharge of effluent from on-site sewage management systems
 - d) Protecting the natural environment, public health and community amenity from the impacts associated with on-site sewage management systems
 - e) Monitoring the environmental impacts from on-site sewage management systems

- f) Taking an educational and where necessary, enforcement role, in the regulation of on-site sewage management systems in the Shire
- g) Ensuring all stakeholders are aware of their responsibilities and have access to appropriate information about their on-site sewage management systems.
- Council's On-Site Sewage Management System Policy aims to ensure that the community is provided with an efficient, cost-effective on-site sewage management licensing program which meets the needs of the stakeholders, the responsibilities of Council and the protection of the environment and public health.

LEGISLATION AND GUIDELINES

Council is guided by the following NSW legislation, Australian Standards and Guidelines in its assessment of on-site sewage management system applications and the ongoing licensing of systems:

Local Government Act 1993

The installation and operation of on-site sewage systems are regulated under the Local Government Act 1993.

Section 68 of the Act requires Council approval for the installation, construction, alteration and ongoing operation of a sewage management system. The Act also requires Council approval to install and operate greywater treatment systems and greywater diversion devices in unsewered areas.

It is an offence of the Act not to obtain approval for the installation and ongoing operation of an on-site sewage management system. It is also an offence not to comply with the terms of an Approval issued by Council for an on-site sewage management system.

The Local Government Act 1993 provides regulatory tools for Council officers to use in instances of system failures, systems without approvals, and pollution events. These regulatory tools include the issuance of Notices and Orders pursuant to Section 124 to repair defective systems, and/or do or refrain from doing things to ensure land is kept in a safe and healthy condition. The Act also contains provisions relating to monetary penalties for breaches of the Act.

Local Government (General) Regulation 2021

The Local Government (General) Regulation 2021 sets out specific requirements for on-site sewage system approvals including matters for Council consideration, performance standards and circumstances where prior Council approval is not required. The Regulation also specifies the accreditation role NSW Health plays in the types of systems which may be installed.

Protection of the Environment Operations Act 1997

The Protection of the Environment Operations Act 1997 provides Council with powers to take regulatory action where on-site sewage management systems are failing and/or causing pollution. Council has powers under the Act to issue Notices where a pollution incident is being caused or where a system is being operated in an environmentally unsatisfactory manner. The Act also contains provisions relating to monetary penalties for breaches of the Act.

Environment & Health Protection Guidelines On-Site Sewage Management for Single Households

The Environment and Health Protection Guidelines were developed by the Department of Local Government in 1998. The Guideline provide councils with tools for the effective regulation of on-site sewage management systems. The Guidelines address issues including but not limited to regulatory frameworks, the development of conditions of approval to operate on-site sewage management systems, and site assessment principles.

Other Standards/Guidelines

Other guidance documents used by Council officers to assess applications and undertake inspections of on-site sewage management systems may include:

- AS/NZS 1547 On-site domestic wastewater management
- AS 3500 Plumbing and Drainage Code
- NSW Guidelines for greywater reuse in sewered, single household residential premises
- NSW Health guidelines for on-site sewage management

AREAS COVERED BY THIS POLICY

This Policy includes all properties which contain an on-site sewage management system, as defined by the Local Government Act 1993, where sewage is not directly discharged to a public sewer, and which are not specifically licensed and/or regulated by the NSW Environment Protection Authority (EPA).

LICENSING PROGRAM

Approval to Install

All new systems must obtain an Approval to Install licence pursuant to Section 68 of the Local Government Act 1993.

Council will consider Approval to Install applications in accordance with the abovementioned legislation and guidelines and will conduct the necessary inspections to ensure the system has been installed in accordance with the approval granted.

Approval to Operate

Following installation of an on-site sewage management system to Council's satisfaction, an Approval to Operate licence is required pursuant to Section 68 of the Local Government Act 1993.

Council's Approval to Operate licence will be valid for a period not exceeding seven years and includes conditions of approval to correctly operate and maintain the system. These conditions outline the responsibilities of system owners in order to protect the natural environment and public health, and require systems to be operated in such a manner to prevent the spread of disease, the generation of insects, vermin and foul odours, the contamination of waters and the degradation of soil and vegetation.

Audits of all on-site sewage management systems will be undertaken over a seven-year period to ensure compliance with licence approval conditions.

Audits will be undertaken sequentially based on their level of risk to the environment and public health. In situations where Council's audit identifies that a system has failed and/or has the potential to cause significant environmental pollution or impact to public health, the risk level for a system may be re-evaluated. In these scenarios it may be deemed appropriate for Council to issue a lesser licensing period. Council may also utilise their discretionary powers to reduce the risk category of a system where deemed appropriate.

Regulation of on-site sewage management systems will also be managed by way of reactive inspections where complaints are received to Council and where property owners have requested an inspection.

Where a change in ownership of a property occurs, an Approval to Operate licence will be issued to the new owner once Council receives information pertaining to the property transfer.

Where Sydney Water's sewer system becomes available in previously non-sewered areas, an Approval to Operate licence will not be renewed and the property owner will be required to connect to the Sydney Water sewer line.

FEES AND CHARGES

Licensing fees associated with the issuance of an Approval to Install and an Approval to Operate will be charged in accordance with Council's adopted Fees and Charges. The Approval to Operate licence and accompanying audit will be charged as an annual levy in Council's Rate Notice.

HORNSBY SHIRE COUNCIL ON-SITE SEWAGE MANAGEMENT SYSTEM POLICY FREQUENTLY ASKED QUESTIONS

The Hornsby Local Government Area contains approximately 2,800 on-site sewage management systems.

These systems, when not correctly operated or maintained can create environmental and human health impacts, including toxic algal blooms, the transmission of viruses, and implications to our oyster farming industry.

To ensure on-site sewage management systems are functioning appropriately, and public health and the natural environment is protected, Council has prepared a draft On-site Sewage Management System Policy which seeks to implement a licensing and audit program for all systems within the Shire.

Why is an On-Site Sewage Management System Policy needed?

Local councils are required under the Local Government Act 1993 to issue licences for the installation and ongoing operation of on-site sewage management systems.

In recent years, Council has issued approvals for on-site sewage management systems with a reliance on property owners and service technicians to inspect and self-regulate the systems.

The draft On-Site Sewage Management System Policy provides a practical framework for Council officers to licence, regulate and undertake audits of on-site sewage management systems in order to protect human health and the natural environment from defective or failing systems.

What are the benefits to the community and the environment of the proposed On-Site Sewage Management System Policy?

Implementation of this Policy would enable Council officers to provide the community and system owners with information and educational resources to further understand the appropriate operation and maintenance required for individual systems. Improvements to how you operate and maintain your on-site sewage management system can assist in ensuring its longevity and save you money on unnecessary repairs.

A combination of poor system operation and management, coupled with a lack of awareness of the impacts of defective systems can result in on-site sewage management system failure. These failures have the potential to affect public health, the local economy and our natural environment through the contamination of groundwater, and by entering waterways and recreational swimming areas. In this regard, it is essential that system owners and residents are aware and directly responsible for the use of their on-site sewage management systems and understand the potential impact on public health and the environment.

Appropriate system operation minimises the potential for the following adverse impacts:

- Spread of disease by bacteria, viruses, parasites, and other organisms in wastewater.
- Surface water and groundwater contamination.
- · Pollution of waterways, which may result in the contamination of oyster harvesting and other
- commercial business operations.
- Degradation of soil and vegetation.
- Decreased community amenity caused by odours, noise and insects.

Contamination from faecal bacteria (sewage) in waterways creates a direct risk to public health, particularly in freshwater creeks where bacteria persist for longer in the environment. Bacterial contamination also poses a direct risk to public health in estuarine areas used for recreational swimming and commercial oyster growing.

Elevated nutrient concentrations, particularly nitrogen and phosphorus, as well as increased bacteria levels are evident in waterways associated with communities that rely on on-site sewage management systems. Although nutrients are essential for the growth of aquatic plants and phytoplankton that sustain ecosystems, elevated nutrient levels can also encourage the growth of weed species and cause an increase in microalgal productivity causing algal blooms.

As detailed in the Hornsby Shire Council Waterway Health Review (1995-2017), problematic algal blooms continue to occur in the estuarine areas of the lower Hawkesbury River, and of note, Berowra Creek, impacting on the use of waterways for fishing, swimming and other recreational pursuits.

Approval from the NSW Food Authority for oyster farmers to undertake direct harvest from the Hawkesbury River without the need for depuration relies on the effective operation of on-site sewage management systems. The application of the proposed licensing and audit program would provide significant support for the 15 active oyster businesses currently operating in the Hawkesbury, given the industry annually produces more than 60,000 dozen oysters for human consumption.

Further, the establishment of an On-Site Sewage Management System Policy, underpinned by effective licensing, audits, monitoring and community education, would assist Council in delivering key outcomes identified in Council's Water Sensitive Hornsby and Biodiversity Conservation Management Plan. The Policy would enable a strong focus on water management and support safe communities and healthy, clean rivers and creeks whilst delivering a holistic approach to water management in meeting the challenges of population growth.

What areas of the Hornsby Shire will be included in the Policy?

The draft Policy includes all properties that contain an on-site sewage management system that requires a licence issued by Council in order to operate the system. This includes all systems where sewage cannot be directly discharged to a public sewer, and those which are not specifically licensed and/or regulated by the NSW Environment Protection Authority (EPA).

How often will my system be audited and licensed?

Every system is required to have a licence prior to the installation of a system, known as an 'Approval to Install', followed by a licence for the ongoing operation of the system, known as an 'Approval to Operate'. These licences are issued by Council in accordance with the Local Government Act 1993.

The draft Policy proposes to renew Approval to Operate licences every seven years and an audit undertaken of each system within the seven year licence period to ensure compliance with licence conditions.

Audits of all on-site sewage management systems will be undertaken sequentially based on their level of risk to the environment and public health, over a seven year period. Systems are defined as either high, medium or low risk as follows:

High risk systems

High risk systems are generally defined as those systems located in close proximity to recognised recreational swimming, oyster harvest areas or oyster lease areas.

Medium risk systems

Medium risk systems are generally defined as those systems not located in close proximity to recognised recreational swimming, oyster harvest areas or oyster lease areas, and those systems that are not defined as Aerated Wastewater Treatment Systems.

Low risk systems

Low risk systems are generally defined as those systems that use sensitive biological agents and chemical processes to produce a higher quality effluent than a standard septic tank. These systems are commonly known as Aerated Wastewater Treatment Systems (AWTS) and have been identified as low risk given the required regular inspections and maintenance of the systems in accordance with the requirements of NSW Health.

Audits will be undertaken sequentially based on a system's level of risk, with high-risk systems audited at the commencement of the seven-year program, followed by medium risk and low risk systems. Council will also prioritise inspections of systems where complaints are received, or an inspection is requested.

In situations where Council's audit identifies that a system has failed and/or has the potential to cause significant environmental pollution or impact to public health, the risk level for a system may be re-evaluated. Further, in these scenarios, it may be deemed appropriate for Council to issue a lesser licensing period.

Council may also utilise their discretionary powers to reduce the risk category of a system where deemed appropriate. However, it is noted that a change in risk category will not alter the frequency of audits undertaken on a system but will determine when the audit will be undertaken within the seven year period.

Will I be made aware that Council intends to inspect my system?

Yes. Prior to the commencement of the audit program, Council will write to each system owner to advise of the adoption of the Policy and also seek confirmation of the type of on-site sewage management system located on the property to ensure Council's records are current.

Property owners will be given notification in writing of Council's intention to inspect their on-site sewage management system. If an owner wishes to be present at the time of Council's inspection, they will be given an opportunity to contact Council and arrange a mutually suitable time for the inspection to take place during regular business hours.

When a Council Officer attends a property and is unable to gain access to the on-site sewage management system or complete an inspection, the property owner will be contacted and a suitable time arranged for the inspection to be completed.

What happens if Council is not satisfied that my system is operating correctly? Will I be fined?

If your system is found to be defective as a result of Council's audit program, Council's officer will seek your cooperation to repair the system as soon as possible, in order to prevent a possible environmental pollution incident or impacts to human health. Further, Council will provide you with appropriate guidance and

educational resources to assist you in ensuring the system is operated and maintained correctly, minimising the likelihood of issues with your system in the future.

Should system owners be uncooperative, or rectification of the issues not be achieved in a reasonable timeframe to prevent environmental pollution or damage, Council may commence enforcement action to resolve the matter.

My system has been in operation for many years. Will Council require an older system to be replaced due to its age, even if it is not causing a risk to the environment or human health?

No. The purpose of Council's licensing and audit program is to ensure each system is complying with its Approval to Operate, is working correctly and is not causing a pollution incident, regardless of a systems age.

I am reliant on the information from my wastewater contractor who services and maintains my system. Will I still need to have my system serviced, repaired and maintained by my service technician/wastewater contractor, or will I be reliant on Council officers to do this work?

Council's role in the licensing and audit program will be as the direct point of contact for owner or service technician enquiries, to provide education and relevant resources to ensure a system is being operated appropriately, and to ensure each system's Approval to Operate licensing conditions are being complied with.

Council's role is not to design/provide engineered solutions to repair a defective system or to undertake servicing, repairs or maintenance of a system. This role will continue to fall within the scope of the wastewater/environmental contractor and/or service technician, engaged by a system owner.

Will Council continue to undertake reactive inspections?

Yes. Council's officers will continue to undertake reactive inspections and investigations should Council receive reports that a system is failing or causing potential impacts to the environment or human health.

Will I be charged for the Approval to Operate licence and audit of my system?

An annual fee will be charged to all system owners, subject to CPI changes. This fee will enable Council to provide a service to monitor and regulate on-site sewage management systems through audits and issue licences to system owners every seven years.

The annual fee will be charged against your Rates Notice in accordance with Council's adopted Fees and Charges.

It is noted that residents who are connected to Sydney Water's sewer line similarly pay annual wastewater service fees for the operation and maintenance of the sewer network.

I have an Aerated Wastewater Treatment System which is inspected by a service technician every quarter. Will I still be required to pay fees to Council?

Yes. Aerated Wastewater Treatment Systems (AWTS) are still required to be licensed in accordance with the Local Government Act 1993. The conditions in Council's licence stipulate that the quarterly servicing of Aerated Wastewater Treatment Systems by independent service technicians is required. Council officers will also

inspect these systems to ensure they are operating in accordance with all other conditions of Council's Approval to Operate licence.

I've recently moved into a property that has an on-site sewage management system. How will I be advised of my licensing responsibilities and Approval to Operate expiration date?

Where a change in ownership of a property occurs, an Approval to Operate licence is issued to new property owners once Council receives information pertaining to the property transfer. Licence expiration dates and system requirements are detailed in the licence. Educational material will also be provided to new homeowners to ensure they understand the requirements of operating and maintaining their on-site sewage management system.

I've recently connected to Sydney Water's sewer line via a Pressure Sewerage System. Will my on-site collection tank be required to be inspected and licensed by Council?

No. Properties in Galston, Glenorie, Brooklyn, Dangar Island, Mount Kuring-gai and Cowan that have connected to Sydney Water's sewer line via a Pressure Sewerage System do not require an inspection or licence by Council. At the time of connection to the Sydney Water sewer line, your on-site sewage management system was required to be decommissioned and replaced with equipment that transfers wastewater to the Sydney Water wastewater pipe network in your street. These types of connections are also known as a 'Pumpto-Sewer' connection.

Whilst Pressure Sewerage Systems are located on private property, their equipment, including the collection tank and grinder pump, alarm control panel, boundary kit and property discharge pipe, is owned and maintained by Sydney Water. Home owners are responsible for all of the wastewater pipes and fittings inside the home up to the connection point of the Pressure Sewage System.

Property owners who are connected to Sydney Water's sewer by a Pressure Sewerage System pay annual wastewater service fees for their sewer connection. The service fees enable Sydney Water to carry out inspections of the Pressure Sewerage System equipment as part of their maintenance and safety program. These inspections ensure the equipment is kept in good working condition.

Where can I find more information about on-site sewage management systems?

Further information, including Approval to Install and Operate application forms and educational material, can be found on Council's website: www.hornsby.nsw.gov.au.

Guidelines for on-site sewage management systems and their correct operation can also be found on NSW Health's website: www.health.nsw.gov.au

Applicable legislation for on-site sewage management systems including the Local Government Act 1993, Local Government (General) Regulation 2021, and the Protection of the Environment Operations Act 1997 can be found at https://legislation.nsw.gov.au/

ATTACHMENT/S

REPORT NO. PC10/22

ITEM 8

1. CLAUSE 4.6 RETURN - JAN TO MAR 2022

Council DA reference number	DA/581/2020	DA/1188/2021
Lot number	7	5
DP number	1260122	17378
Apartment/Unit number		
Street number	35E	14
Street name	Sefton Road	Sutherland Road
Suburb/Town	Thornleigh	Cheitenham
Postcode	2120	2119
Category of development	11: Industrial	1: Residential - Alterations & additions
Environmental planning instrument	HLEP	HLEP
Zoning of land	IN1	R2
Development standard to be varied	Clause 4.3	Clause 4.3
Justification of variation	The Clause 4.6 submission is considered well founded. Strict compliance with the development standard is considered unreasonable and unnecessary in the circumstances of the case and sufficient environmental planning grounds have been submitted to justify the contravention of the development standard.	It is considered that compliance with the development standard would be unreasonable and unnecessary in the circumstances of the case and the Clause 4.6 submission should be supported. The height departure would not result in any significant amenity impact to surrounding neighbours, The existing dwelling house already exceeds the maximum 8.5m height development control of the HLEP with an existing height of 11.53m. The proposed additions are designed to match the existing roof pitch, align with the existing indge line of RL116.33 and sympathetically conform with the existing Dutch gable roofed dwelling house. The proposal is considered a sensitive and modest modification that will retain the form of the building. It would have no discernible impact on the HCA, nearby heritage items or the streetscape. The proposed development meets the objectives of Clause 4.3 of the HLEP by way of being appropriate with respect to the constraints of the site in terms development potential of the site.
Extent of variation	27.6%	39.5%

Local Planning Panel

Local Planning Panel

23/02/2022

Date DA determined dd/mm/yyyy

Concurring authority

23/02/2022

Council DA reference numberDA/1258/2021Lot numberDA/1258/2021Lot number33DP number33Apartment/Unit number33Street number33Street nameCopeland RoadStreet name2119Category of development13: Subdivision only	21 toad	DA/736/2021 9/6 Leighton Place Hornsby 2077 8: Commercial / retail / office HLEP
Dit	toad sion only	9/6 Leighton Place Hornsby 2077 8: Commercial / retail / office HLEP
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	sion only	2077 8: Commercial / retail / office HLEP
	sion only	8: Commercial / retail / office HLEP
		HLEP
Zoning of land R2		IN1
Development standard to be varied Clause 4.1A	-	Clause 4.4
with the object would not rest land fragment Torrens title al Torrens title al three dwelling unit housing d Application Nc applicant that	with the objective as the proposed strata subdivision would not result in additional dwelling entitlements or land fragmentation on the site given that the existing Torrens title allotment is already lawfully improved by three dwellings resulting from the approval of a multi- unit housing development under Development Application No. 78/90. Council concurs with the applicant that approval of the application would not after the intensity or scale of the existing	standard would be unreasonable and unnecessary in the circumstances of the case and the Clause 4.6 submission should be supported. The FSR variation would not result in any variation to the external built form of the development in terms of height, bulk and scale of the existing character of the industrial complex. With the exception of a minor non-compliance with respect to parking (discussed in report), the proposed development parking conditionable development standard and
development of dwellings to be ownership, the versatility to ex	development on the site and would allow the existing dwellings to be on separate titles and under separate ownership, thereby adding economic value and versatility to existing housing stock.	design control The proposed use would be compatible with the industrial area, surrounding uses and meet the objectives of the zone.
Extent of variation 35.5%		2.2%
Concurring authority Local Planning Panel	ing Panel	Council
Date DA determined dd/mm/yyyy 18/03/2022		3/02/2022

Clause 4.6 Return – Quarter - 1 January to 31 March 2022	31 March 2022	
Council DA reference number	DA/1012/2021	DA/1092/2021
Lot number		
DP number		
Apartment/Unit number		
Street number	449D	
Street name	Pennant Hills Road	11 Ferndale road
Suburb/Town	Pennant Hills	normanhurst
Postcode	2121	
Category of development	12: Community facility	
Environmental planning instrument	HLEP	HLEP
Zoning of land	R2	R2
Development standard to be varied	Clause 4.3	Clause 4.6
Justification of variation	Council's assessment considers that the proposed height of the additions would be lower than the existing MSB Centre building. It is noted that the existing MSB Centre is approximately 22m above existing ground level or 13.5m above the height limit. Council considers that the standard has been virtually abandoned/destroyed at the site as evidenced by the height of the existing MSB Centre (Wehbe point 4). Further, it is noted that the Education SEPP permits as complying development school buildings up to 22m in height for educational establishments in R2 low density residential zones. The height of the proposed works complies with the height control contained within Schedule 2 of the Education SEPP.	The request under Clause 4.6 of Hornsby Local Environmental Plan 2013 to contravene the 'Height of buildings' development standard is well founded. Strict compliance with the development standard is considered unreasonable and unnecessary in the circumstances of the case and sufficient environmental planning grounds have been submitted to justify the contravention to the development standard.
Extent of variation	102%	7%
Concurring authority	SNPP	Council
Date DA determined dd/mm/yyyy	7/02/2022	17/03/2022

Council DA reference number	DA/131/2021	DA/133/2021
Lot number	proposed Lot B	proposed lot A
DP number		
Apartment/Unit number		
Street number	134	134
Street name	Burdett St	Burdett St
Suburb/Town	Wahroonga	Wahroonga
Postcode		
Category of development		
Environmental planning instrument		
Zoning of land	R2	R2
Development standard to be varied		
Justification of variation	Strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case as the proposal would comply when both approved lots A and B are registered under DA/248/2019/B	Strict compliance with the development standard is unreasonable and unnecessary in the circumstances of the case as the proposal would comply when both approved lots A and B are registered under DA/248/2019/B.
Extent of variation	Exceeds max boarding house requirement by 10 rooms	Exceeds max boarding house requirement by 10 rooms
Concurring authority	Local Planning Panel	Local Planning Panel
Date DA determined dd/mm/yyyy	30/03/2022	30/03/2022

Clause 4.6 Return – Quarter - 1 January to 31 March 2022

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Council DA reference number	DA/1302/2021	DA/61/2022
Lot number	1/2	16
DP number	SP 34827	240146
Apartment/Unit number		
Street number	22	21
Street name	Murray Road	Lowanna Place
Suburb/Town	Beecroft	Hornsby
Postcode	2119	2077
Category of development	13: Subdivision only	1: Residential - Alterations & additions
Environmental planning instrument	HLEP	HLEP
Zoning of land	R2	R2
Development standard to be varied	Clause 4.1	Clause 4.3
	subject site of 1200002 is required. The total lot size of the subject site is 1326m2. However, the proposed subdivision will follow the existing strata lot arrangement, This subdivision layout allows Lot 1 to retain its larger size, as it is of local cultural significance. The larger lot size provides space for more landscaping to enhance the character of the home. larger corner allotment affords more streetscape amenity by allowing larger setbacks. It would be unreasonable and unnecessary to require the boundary of the two allotments to be adjusted to meet the numerical standard pertaining to minimum lot size. Both lots are established landscaping.	features and constrains such as y bushfire. It is not features and constrains such as y bushfire, it is not feasible for the footprint of the building to be increased, and therefore the only way to improve the development potential of the site, and the liveability of the dwelling house is to develop the dwelling house vertically. The proposed pergola roof will assist in the maintenance of the re-constructed deck by preventing decay from the weather. The pergola roof would also enable appropriate stormwater drainage from the structure. There is no ability to re-design the pergola so that it complies with the 8.5 metre maximum height requirement.
Extent of variation	15.55%	28.9%
Concurring authority	Local Planning Panel	Local Planning Panel
Date DA determined dd/mm/yyyy		

rv to 31 March 2022 ć S V 9 ē

Council DA reference number	DA/528/2020	DA/1353/2021
Lot number	4, 5, 5, 7	3
DP number	650304, 650059, 136220, 664787	204635
Apartment/Unit number		
Street number	409-411	28
Street name	Pacific Highway	Landra Avenue
Suburb/Town	Asquith	Mount Colah
Postcode	2077	2079
Category of development	14: Other	1: Residential - Alterations & additions
Environmental planning instrument	HLEP	HLEP
Zoning of land	R4	R2
Development standard to be varied	Height of Buildings	Height of Buildings
Justification of variation	Height of building is appropriate for site constrains Height of building is appropriate for site constraints and infrastructure capacity of the locality. Building height would not cause	Height of building is appropriate for site constrains Height of building is appropriate for site constraints and infrastructure capacity of the locality. Building height would not cause uncertable amenity impact to
	unacceptable amenity impact to surrounding built and natural environment.	
Extent of variation	16.6%	19.7%
Concurring authority	Local Planning Panel	Local Planning Panel
Date DA determined dd/mm/yyyy		

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 ITEM 8

ATTACHMENT 1 -