



Ordinary meeting business paper

Wednesday, 15 June 2022

commencing 10.00 am

Rous Administration Centre (L4), 218-232 Molesworth Street, Lismore

In accordance with clause 5.21 of the *Local Government Act 1993*, attendees at today's Council meeting are advised that this meeting is being 'live' streamed (except for the confidential session).

- *All speakers should refrain from making any defamatory comments or releasing any personal information about another individual without their consent.*
- *Council accepts no liability for any damage that may result from defamatory comments made by persons attending meetings. All liability will rest with the individual who made the comments.*
- *This meeting must not be recorded by others without the prior written consent of the Council in accordance with Council's Code of Meeting Practice.*

AGENDA

1. Opening of the meeting

2. Acknowledgement of Country

Council would like to show its respect and acknowledge the Traditional Custodians of the Land, of Elders past and present on which this meeting takes place.

3. Apologies and Leave of Absence

4. Confirmation of Minutes of previous meeting

4.1 Extraordinary meeting minutes 11 May 2022 1 - 3

5. Disclosure of Interest

6. General Manager reports

Nil.

7. Group Manager Corporate and Commercial reports

7.1 Payment of superannuation for councillors 4 - 5

7.2 Retail water customer account assistance 6

8. Group Manager People and Performance reports

8.1 Code of Conduct, Code of Conduct Procedures and Code of Meeting Practice 7 - 241

8.2 Audit Risk and Improvement Committee - meeting update 242 - 261

9. Policies

9.1 Investments (reviewed) 262 - 272

10.	Information reports (cover report)	273
10.1	Investments - May 2022	274 - 280
10.2	Water consumption and usage - May 2022	281 - 294
10.3	Delivery program progress update 1 July 2021 to 31 December 2021	295 - 310
10.4	Contract for the provision of electricity for Rous County Council operations	311 - 312
10.5	Reports/actions pending	313 - 314
11.	Confidential matters	
11.1	Annual Performance Review: General Manager	315 - 316
12.	Matters of urgency	
13.	Notices of Motion / Questions on notice	
13.1	Notice of Motion: Browns Creek Pump Station on the Lismore Levee	317
14.	Close of business	

MINUTES OF THE EXTRAORDINARY MEETING OF ROUS COUNTY COUNCIL HELD WEDNESDAY, 11 MAY 2022 AT INVERCAULD HOUSE - 163 INVERCAULD ROAD, GOONELLABAH COMMENCING 2.08PM

1 OPENING OF THE MEETING

The Chair opened the meeting at 2.08 pm.

In attendance:

Councillors:

- Cr Robert Mustow, Richmond Valley Council (Chair)
- Cr Sharon Cadwallader, Ballina Shire Council (Deputy Chair)
- Cr Rod Bruem, Ballina Shire Council
- Cr Michael Lyon, Byron Shire Council
- Cr Sarah Ndiaye, Byron Shire Council
- Cr Andrew Gordon, Lismore City Council (arrived 2.49pm)
- Cr Big Rob, Lismore City Council
- Cr Sandra Humphrys, Richmond Valley Council

Officers:

- Phillip Rudd, General Manager
- Andrew Logan, Group Manager Planning and Delivery
- Guy Bezrouchko, Group Manager Corporate and Commercial
- Helen McNeil, Group Manager People and Performance

Other attendees:

- Noeline Smith, Minute Taker

2 ACKNOWLEDGEMENT OF COUNTRY

Council showed its respect and acknowledged the Traditional Custodians of the Land, of all Elders, on which this meeting took place.

3 APOLOGIES AND LEAVE OF ABSENCE

Nil.

4 CONFIRMATION OF MINUTES OF PREVIOUS MEETING

RESOLVED [17/22] (Cadwallader/Ndiaye) that the minutes of the meeting held 16 February 2022 be confirmed as presented, subject to correction to include Cr Ndiaye and Cr Lyon as voting against the *Notice of Motion - Dunoos Dam (Item 12) Resolution 11/22*.

Council meeting minutes 22 February 2022 (Resolution)		
For	Cr Rod Bruem, Cr Sharon Cadwallader, Cr Andrew Gordon, Cr Sandra Humphrys, Cr Michael Lyon, Cr Robert Mustow, Cr Sarah Ndiaye and Cr Big Rob	8
Against	None	0
Conflict of Interest	None	0
Abstain	None	0
Carried		

5 DISCLOSURE OF INTEREST

Nil.

6 NOTICES OF MOTION

Nil.

7 GENERAL MANAGER REPORTS

Nil.

8 GROUP MANAGER CORPORATE AND COMMERCIAL REPORTS

8.1 Draft Integrated Planning and Reporting Framework (Incorporating the 2022/23 Budget and 'Revenue' policy)

RESOLVED [18/22] (Cadwallader/Bruem) that:

1. Council endorses the draft Integrated Planning and Reporting Framework (incorporating the 2022/23 Budget and 'Revenue' policy) attached to this report, for public exhibition.
2. Council note that adjustments approved at this meeting as part of the March 2022 Quarterly Budget Review Statement report will be included in the exhibited Framework as appropriate.
3. If public submissions are made during the public exhibition period, a report be furnished to Council's June 2022 meeting, including staff comment on how the submissions have been considered, for Council to determine a position on endorsement of the Framework (incorporating the 2022/23 Budget and 'Revenue' policy).
4. If no public submissions are made during the public exhibition period, the version of the draft Integrated Planning and Reporting Framework (incorporating the 2022/23 Budget and 'Revenue' policy) placed on public exhibition, is deemed to be adopted by Council.

Cr Rob left the meeting at 2.38pm returned at 2.39pm

Cr Gordon arrived at 2.49pm.

Draft Integrated Planning and Reporting Framework (incorporating the 2022/23 Budget and 'Revenue' policy) (Resolution)		
For	Cr Rod Bruem, Cr Sharon Cadwallader, Cr Andrew Gordon, Cr Sandra Humphrys, Cr Michael Lyon, Cr Robert Mustow, Cr Sarah Ndiaye and Cr Big Rob	8
Against	None	0
Conflict of Interest	None	0
Abstain	None	0
Carried		

8.2 Quarterly Budget Review Statement quarter ending 31 March 2022

RESOLVED 19/22 (Gordon/Cadwallader) that Council note the results presented in the Quarterly Budget Review Statement as at 31 March 2022 and authorise the variations to the amounts from those previously estimated.

Quarterly Budget Review Statement quarter ending 31 March 2022 (Resolution)		
For	Cr Rod Bruem, Cr Sharon Cadwallader, Cr Andrew Gordon, Cr Sandra Humphrys, Cr Michael Lyon, Cr Robert Mustow, Cr Sarah Ndiaye and Cr Big Rob	8

Against	None	0
Conflict of Interest	None	0
Abstain	None	0
Carried		

9 CONFIDENTIAL MATTERS

Nil.

10 MATTERS OF URGENCY

Nil.

11 QUESTIONS WITHOUT NOTICE

Nil.

12 CLOSE OF BUSINESS

There being no further business the meeting closed at 3.13 pm.

Payment of superannuation for councillors

Responsible Officer: Group Manager Corporate and Commercial (Guy Bezrouchko)

Recommendation

That Council determines its position on the payment of a *superannuation contribution payment* in accordance with section 254B of the *Local Government Act 1993*:

- a) Yes, effective date 1 July 2022; or
- b) No

Background

The *Local Government Act 1993* now has a provision that Council may make a payment as a contribution to a superannuation account nominated by a councillor.

The relevant section of the Act is:

LOCAL GOVERNMENT ACT 1993 - SECT 254B

Payment for superannuation contributions for councillors

254B Payment for superannuation contributions for councillors

- (1) A council may make a payment (a "superannuation contribution payment") as a contribution to a superannuation account nominated by a councillor, starting from the financial year commencing 1 July 2022.
- (2) The amount of a superannuation contribution payment is the amount the council would have been required to contribute under the Commonwealth superannuation legislation as superannuation if the councillor were an employee of the council.
- (3) A superannuation contribution payment is payable with, and at the same intervals as, the annual fee is payable to the councillor.
- (4) A council is not permitted to make a superannuation contribution payment-
 - (a) unless the council has previously passed a resolution at an open meeting to make superannuation contribution payments to its councillors,
 - or
 - (b) if the councillor does not nominate a superannuation account for the payment before the end of the month to which the payment relates,
 - or
 - (c) to the extent the councillor has agreed in writing to forgo or reduce the payment.
- (5) The Remuneration Tribunal may not take superannuation contribution payments into account in determining annual fees or other remuneration payable to a mayor or other councillor.

- (6) A person is not, for the purposes of any Act, taken to be an employee of a council and is not disqualified from holding civic office merely because the person is paid a superannuation contribution payment.
- (7) A superannuation contribution payment does not constitute salary for the purposes of any Act.
- (8) Sections 248A and 254A apply in relation to a superannuation contribution payment in the same way as they apply in relation to an annual fee.
- (9) In this section--

"Commonwealth superannuation legislation" means the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth.

"superannuation account" means an account for superannuation or retirement benefits from a scheme or fund to which the Commonwealth superannuation legislation applies.

Governance

The *Local Government Act 1993* was amended in 2021 to enable the payment of superannuation contributions starting 1 July 2022 for councillors. This is conditional on various requirements being met, including council resolving in an open meeting in favour of making such payments. Individual councillors may opt out of payments or choose to reduce the amount of payments. It should be noted that there are various circumstances where councillors are not entitled to receive a payment, for example, during any period in which they are not entitled to receive their fee, for example due to absence or suspension from civic office.

Finance

Superannuation contribution payments will be paid in line with monthly councillor fees. The superannuation guarantee rate applicable from 1 July 2022 is 10.5%. This rate will increase by half a percent each year until 1 July 2025 when it reaches 12%. The estimated cost is \$10,500 for the 2022/23 financial year and has been included in the draft Budget.

Legal

It is proposed to include the outcome of Council's decision on this matter in Council's *'Payment of expenses and provision of facilities for chairperson and councillors'* policy in due course.

Consultation

Not applicable.

Conclusion

Council is required to resolve whether to (or not) make superannuation contribution payments from 1 July 2022.

Retail water customer account assistance

Responsible Officer: Group Manager Corporate and Commercial (Guy Bezrouchko)

Recommendation

That Council, in accordance with section 356 (1) of the *Local Government Act 1993* and its 'Retail Water Customer Account Assistance' policy, approve financial assistance as listed in Table 1 of this report.

Background

Five applications for financial assistance in accordance with section 356 (1) under Council's 'Retail Water Customer Account Assistance' policy has been received. Details of the application are set out below.

Table 1

Section 356 (non pensioner)						
Account	Property owner/s	Date application received	Nature of leak	Original water charges due	S356 financial assistance to be approved	Adjusted water charges due after approval
10302-12000-0	M J M Bolam	17-Feb-22	Undetectable underground leak in pipe due to tree root infiltration.	\$3,185.61	\$1,366.94	\$1,818.67
12004-11000-8	A Worgan, D A Tisdell	27-Apr-22	Undetectable underground leak due to pressure reducing valve failure.	\$4,574.25	\$2,408.42	\$2,165.83
10774-10000-1	S Sattolo & M Butler	10-May-22	Undetectable underground leak in split pipe.	\$2,522.85	\$869.87	\$1,652.98
10269-11000-2	Koresoft Pty Ltd	12-May-22	Undetectable underground leak in cracked pipe fitting.	\$6,533.60	\$3,877.94	\$2,655.66
11840-11000-8	R A & V McEwan	20-May-22	Undetectable underground leak along boundary line.	\$3,885.19	\$1,891.63	\$1,993.56
Total				\$20,701.50	\$10,414.80	\$10,286.70

Finance

The 2021/22 financial year budget allocation for applications made in accordance with the 'Retail Water Customer Account Assistance' policy is \$25,000.

2021/22 financial year budget	\$25,000.00	<u>No. of applications</u>
S356 assistance approved financial year to date	\$4,212.33	3
S582 assistance approved financial year to date	\$3,211.23	2
S582 assistance approved since last Council meeting	\$0.00	-
Proposed S356 assistance approval this Council meeting	\$10,414.80	5
Proposed S582 assistance approval this Council meeting	\$0.00	-
Budget remaining 2021/22 financial year	\$7,161.64	

Legal

Section 377(q) of the *Local Government Act 1993* provides that a decision under section 356 to contribute money or otherwise grant financial assistance may not be delegated and that the decision must be made by resolution of Council.

Conclusion

The total value of section 356 financial assistance equates to \$10,414.80 by application of Council's 'Retail Water Customer Account Assistance' policy. It is proposed that Council grant the recommended financial assistance.

Code of Conduct, Code of Conduct Procedures and Code of Meeting Practice

Responsible Officer: Group Manager People and Performance (Helen McNeil)

Recommendation

That Council:

1. Revoke the following:
 - (a) Code of Conduct dated 17 April 2019; and
 - (b) Code of Conduct Procedures dated 17 April 2019.
2. Adopt the following as **attached**:
 - (a) Revised Code of Conduct; and
 - (b) Revised Code of Conduct Procedures.
3. Publicly exhibit the revised Code of Meeting Practice as **attached** for a period of 28 days and invite submissions on the same for a period of 42 days, concurrently, and:
 - (a) Should no submissions be received, the existing Code of Meeting Practice is revoked and the revised Code of Meeting Practice is adopted; or
 - (b) Should any submission be received, those submissions be considered by Council at its next meeting prior to revoking the existing Code of Meeting Practice and adopting the revised Code of Meeting Practice.

Background

It is a legislative requirement that Council have in place a Code of Conduct, Code of Conduct Procedures and a Code of Meeting Practice (collectively 'Codes') that incorporate the mandatory terms of the corresponding model codes issued by the Office of Local Government ('OLG').¹

Council is also required by legislation to review its Codes within 12 months of the local government elections to make any adjustments it considers appropriate and to ensure they are consistent with the model codes as amended from time to time and legislative requirements.²

Council's existing Codes are now due for review and revised Codes required to be adopted prior to 4 December 2022. All amendments in the revised Codes attached to this report have been made as a 'tracked change' for ease of reference.

Summary of key changes

1. Code of Conduct - Attachment 3

OLG Model Code changes –

Amendments made to the model code of conduct in 2020 by the OLG have been incorporated into the revised Code of Conduct. These amendments include:

- Updated descriptions of various types of discrimination to reflect contemporary standards – clause 3.7.

¹ Refer to [Division 1, Part 1, Chapter 14](#) and [Division 1, Part 2, Chapter 12](#) *Local Government Act 1993*

² Sections 360(3) and 440(7) *Ibid.*

- Token gift now considered to be a gift with a value ≤ \$100 (previously ≤ \$50) – clauses 6.8 – 6.12, inclusive.
- Definition of gift or benefit amended to exclude items ≤ \$10, facilities provided by Council (as opposed to third parties), and meals/beverages provided at a work function/conference etc – clause 6.2.
- Audit, Risk and Improvement Committee included in the definition of ‘council committee’ and ‘council committee members’ – Part 2 Definitions.

Additional county council specific changes –

Additional clauses aimed at managing the conflicts that may arise for councillors when the interests of a constituent council do not align with the interests of the county council have also been included in the revised Code of Conduct – clauses 5.30 – 5.36, inclusive.

Scenarios such as these were discussed in the recent councillor induction session hosted by Lindsay Taylor Lawyers for all Rous councillors in May 2022.

Another additional provision has been included in the revised Code of Conduct to address a gap in the legislation that would allow an employee of a county council to be elected as a councillor member on the county council’s board – clauses 4.6(o) and 4.20A.

Councils are permitted to include additional provisions in their Code of Conduct that supplement the Model Code, even if those additional provisions are more onerous to observe, provided they do not contradict the Model Code.³

The additional provisions outlined above have been drafted by external legal providers and are recommended for inclusion in Council’s revised Code of Conduct as complementary to the Model Code and to address the unique characteristics and challenges of a county council.

2. Code of Conduct Procedures – Attachment 4

All amendments made to the revised Code of Conduct Procedures reflect changes made by the OLG to the Model Code of Conduct Procedures in 2020.

The primary changes are to the provisions regulating the taking of disciplinary action against councillors, particularly the option to formally censure a councillor and the process to be followed to ensure public accountability of misconduct is maintained and transparency of decision-making is preserved - clauses 6.22 – 6.23, 8.19 and Part 7.

These changes reflect a 2019 decision of the Supreme Court of NSW⁴ and the misconduct provisions of the *Local Government Act 1993* (NSW) (‘LG Act’).⁵

Part 3 of the revised Code of Conduct Procedures – the establishment of a panel of conduct reviewers – has also been amended to no longer require the resolution of council for the appointment of the panel.

3. Code of Meeting Practice – Attachment 6

OLG Model Code changes –

At the end of 2021, the OLG released a new Model Code of Meeting Practice containing new provisions:

³ [Section 440](#) *Ibid.*

⁴ *Cornish v Secretary, Department of Planning, Industry and Environment* [\[2019\] NSWSC 1134](#).

⁵ [Section 440G](#) *Local Government Act 1993* (NSW)

- permitting attendance by councillors at meetings via audio-visual link – clauses 3.35, 4.2, 5.16 – 5.30, 5.44, 14.20, 15.21 - 15.22, and 16.2; and
- requiring the inclusion of a reminder of councillors’ oath or affirmation of office and conflict of interest disclosure obligations in the council business paper(s) – this amendment was made to implement recommendation 6 of the NSW Independent Commission Against Corruption (‘ICAC’) report on the former Canterbury City Council (Operation Dasha) – clause 3.23.

Additional changes –

The Model Code of Meeting Practice contains mandatory and non-mandatory provisions and Councils are permitted to amend the non-mandatory provisions and/or adopt supplementary ‘local rules’ provided they are not inconsistent with the mandatory provisions.⁶

Amendments to the non-mandatory provisions and local rules within the revised Code of Meeting Practice include:

- Mandatory clause 3.2 – timing of ordinary meetings to be set by resolution - to be adopted with a qualifier that in the absence of a resolution, ordinary council meetings will commence at 10am and occur on a bi-monthly basis – clauses 3.1 - 3.2A, inclusive.
- Business papers to be provided to councillors a week prior to the next meeting – clause 3.17.
- Option to hold a public forum as part of a council meeting, rather than prior to a meeting as was the previous practice, and parameters on duration, prior notice, questioning of speakers by councillors – Part 4.
- Matters of urgency and Notices of Motion/Questions with notice have been brought forward in the general order of business for an ordinary council meeting – clause 8.2
- Further guidance has been provided on the circumstances in which the Chairperson may rule a motion or amendment out of order – clauses 10.6A – 10.6C.

Comments

Mandatory, non-mandatory, amended non-mandatory, supplementary and omitted provisions of the revised Code of Meeting Practice are identified throughout the document in accordance with the following key:

Various provisions found throughout Council’s Code are outlined below:

Provision	Explanation	Identified by:
Mandatory	Provisions which must be included in the Code	No symbol
Non-mandatory	Provisions suggested by OLG which may be included in the Code	◆
Non-mandatory (amended)	Utilises or replaces non-mandatory provisions suggested by OLG, to meet organisational needs	♣
Supplementary	Additional provisions drafted by Council to meet organisational needs.	♠

⁶ Section 360(3) and (4) Ibid.

Governance

Finance

It is unlikely that there will be any significant or unexpected financial implications as a result of implementing the revised Codes. Any training related costs will fall within current budget allocations.

Legal

Section [361](#) of the LG Act provides that, before adopting a new Code of Meeting Practice, Council is required to exhibit the document for at least 28 days and provide members of the public at least 42 days in which to comment on it.

Consultation

The revised Code of Conduct and Code of Meeting Practice were circulated to Councillors via email and any feedback received incorporated into the documents attached to this report.

Conclusion

The revised Codes have been reviewed and drafted to meet legislative requirements, including the adoption of the mandatory provisions of the Model Codes, and supplementary provisions to meet specific organisational needs. Subject to the public notice/exhibit requirements for the Code of Meeting Practice, it is recommended that Council adopt the revised Codes.

Attachments

1. [Code of Conduct dated 17 April 2019](#) (for **revocation**)
2. [Code of Conduct Procedures dated 17 April 2019](#) (for **revocation**)
3. Revised Code of Conduct (for **approval**) ([D21/29764](#))
4. Revised Code of Conduct Procedures (for **approval**) ([D21/29763](#))
5. [Code of Meeting Practice dated 19 June 2019](#) (for **revocation**)
6. Revised Code of Meeting Practice (for **adoption**) ([D21/29762](#))



Code of Conduct

A code governing the conduct of
Council officials including staff and
Councillors:

based on the Office of Local Government
Model Code of Conduct

(Note: To be read in conjunction with the 'Rous County Council Code of Conduct Procedures' document)

For revocation

Version	Purpose and Description	Adopted by Council	Resolution
1.0	Adoption at Council Meeting 20/3/13	20 March 2013	18/13
1.1	Logo change and referencing Rous County Council following merger at 1 July 2016	-	-
2.0	Adopt revised Code of Conduct (furnished to 17 April 2019 Council meeting with Code of Conduct Procedures)	DRAFT	
3.0	Adopted revised Code of Conduct	17 April 2019	23/19

TABLE OF CONTENTS

PART 1 INTRODUCTION.....4

PART 2 DEFINITIONS.....5

PART 3 GENERAL CONDUCT OBLIGATIONS7

PART 4 PECUNIARY INTERESTS10

PART 5 NON-PECUNIARY CONFLICTS OF INTEREST16

PART 6 PERSONAL BENEFIT.....20

PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALS.....22

PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES24

PART 9 MAINTAINING THE INTEGRITY OF THIS CODE27

PART 10 SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER
MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.2129

PART 11 SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS
SUBMITTED UNDER CLAUSE 4.2135

PART 12 SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY
INTEREST SUBMITTED UNDER CLAUSE 4.3739

PART 1 INTRODUCTION

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

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

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

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

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

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

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

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

To complement the Code and assist with its administration is a procedural document titled ‘Rous County Council Code of Conduct Procedures’.

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

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

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

PART 2 DEFINITIONS

In this code the following terms have the following meanings:

LGA	the <i>Local Government Act 1993</i>
administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
Chairperson	refers to the chairperson of a county council or a joint organisation
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.
conflict of interest	a 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 public duty. These interests may be pecuniary or non-pecuniary.
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
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
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 Chairperson and includes members 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
environmental planning instrument	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>

general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 400O of the LGA
local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
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 <i>Local Government (General) Regulation 2005</i>
social media	is any form of media that allows people to communicate and share information using the internet or mobile phones and includes, but is not limited to, blogs, podcasts, websites, applications, online forums, and private messaging services and platforms
voting representative	a voting representative of the board of a joint organisation
wholly advisory committee	a council committee that the council has not delegated any functions to

PART 3 GENERAL CONDUCT OBLIGATIONS

General conduct

3.1 You must not conduct yourself in a manner that:

- a) is likely to bring the council or other council officials into disrepute¹
- 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 or otherwise amounts to misconduct
- 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*).

Social Media

3.3 ²You must not use social media to post or share comments, photos, videos, electronic recordings or other information that in any way contravenes general behaviour obligations under section 3.1 of this code.³ This includes, but is not limited to, anything 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 the council
- e) contains allegations of suspected breaches of this code or information about the consideration of a matter under the Procedures,
- f) could be perceived to be an official comment on behalf of the council where you have not been authorised to make such a comment, or

Fairness and equity

3.4 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.

3.5 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.

3.6 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 3.4 or 3.5.

¹ This can include the expression of political views, religious beliefs, sexist or sexually inappropriate commentary, racist or racially insensitive comments, commentary that can incite violence, and other such antagonistic actions or discourse.

² The application of this principle is not limited to the use of Council accounts or devices. It also applies to the use of personal accounts and the use of personal devices.

³ This can also refer to acts of trolling whereby comments are made for the express purpose of provoking an adverse response.

Harassment and discrimination⁴

- 3.7 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of sex, sexual identity, orientation, or preference, pregnancy, breastfeeding, race, age, marital or domestic status, disability, infectious disease, carer's responsibilities or political, religious or other affiliation.
- 3.8 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.

Bullying⁵

- 3.9 You must not engage in bullying behaviour towards others.
- 3.10 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.
- 3.11 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- a) aggressive, threatening or intimidating conduct
 - b) belittling or humiliating comments
 - c) spreading malicious rumours
 - d) teasing, practical jokes or 'initiation ceremonies'
 - e) exclusion from work-related events
 - f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
 - g) displaying offensive material
 - h) pressure to behave in an inappropriate manner.
- 3.12 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.

⁴ For further guidance, refer to relevant Council procedure

⁵ For further guidance, refer to relevant Council procedure

Work health and safety

3.13 All council officials, including councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WH&S Act).⁶ You must comply with your duties under the WH&S Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:

- a) take reasonable care for your own health and safety
- b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
- c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WH&S Act and any policies or procedures adopted by the council to ensure workplace health and safety
- d) cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that has been notified to council staff
- e) report accidents, incidents, near misses, to the 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 WH&S Act in relation to the same matter.

Land use planning, development assessment and other regulatory functions

3.14 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.

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

Binding caucus votes

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

3.17 For the purposes of clause 3.16 a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee, irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.

3.18 Clause 3.16 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting, or from voluntarily holding a shared view with other councillors on the merits of a matter.

3.19 Clause 3.16 does not apply to a decision to elect the Chairperson or deputy Chairperson, or to nominate a person to be a member of a council committee or a representative of the council on an external body.

⁶ Refer to Rous County Council Work Health and Safety Policy

Obligations in relation to meetings

- 3.20 You must act in accordance with Council's Code of Meeting Practice during Council and committee meetings.
- 3.21 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.
- 3.22 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).
- 3.23 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.
- 3.24 If you are a councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the council, or of a committee of the council. Without limiting this clause, you must not:
- a) leave a meeting of the council or a committee for the purposes of depriving the meeting of a quorum, or
 - b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or
 - c) deliberately seek to impede the consideration of business at a meeting.

PART 4 PECUNIARY INTERESTS

What is a pecuniary interest?

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- (a) your interest, or
 - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - (c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
- (a) Your "relative" is any of the following:
 - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child

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

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

4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):

- (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
- (b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
- (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

What interests do not have to be disclosed?

4.6 You do not have to disclose the following interests for the purposes of this Part:

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

conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:

- i) the performance by the council at the expense of your relative of any work or service in connection with roads or sanitation
 - ii) security for damage to footpaths or roads
 - iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council, or by or under any contract
- (j) an interest relating to the payment of fees to councillors (including the Chairperson and deputy Chairperson)
 - (k) an interest relating to the payment of expenses and the provision of facilities to councillors (including the Chairperson and deputy Chairperson) in accordance with a policy under section 252 of the LGA,
 - (l) an interest relating to an election to the office of Chairperson arising from the fact that a fee for the following 12 months has been determined for the office of Chairperson
 - (m) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person⁷
 - (n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or a council committee member
 - (o) an interest arising from the appointment of a councillor to a body as a representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

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

What disclosures must be made by a designated person?

4.8 Designated persons include:

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

⁷ By means of an example, this can refer to such an instance where a payroll officer who processes the pay of an employee who is also a relative of the payroll officer.

4.9 A designated person:

- (a) must prepare and submit written returns of interests in accordance with clauses 4.21, and
- (b) must disclose pecuniary interests in accordance with clause 4.10.

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

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

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

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

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

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

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

What disclosures must be made by council advisers?

4.16 A person who, at the request or with the consent of the council or a council committee, gives advice on any matter at any meeting of the council or committee, must disclose the nature of any pecuniary interest the person has in the matter to the meeting at the time the advice is given. The person is not required to disclose the person's interest as an adviser.

4.17 A person does not breach clause 4.16 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.

What disclosures must be made by a council committee member?

4.18 A council committee member must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29.

4.19 For the purposes of clause 4.18, a "council committee member" includes a member of staff of council who is a member of the committee.

What disclosures must be made by a councillor?

4.20 A councillor:

- (a) must prepare and submit written returns of interests in accordance with clause 4.21, and

- (b) must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29 where it is applicable.

Disclosure of interests in written returns

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

Disclosure of pecuniary interests at meetings

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

- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council committee member, or the councillor's or council committee member's spouse, de facto partner or relative, is:
- (a) a member of, or in the employment of, a specified company or other body, or
 - (b) a partner of, or in the employment of, a specified person.
- Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the councillor's or council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.
- 4.33 A councillor or a council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.34 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.35 Despite clause 4.29, a councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.36 Clause 4.29 does not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- (a) the matter is a proposal relating to:
 - (i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
 - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
 - (b) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and
 - (c) the councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.
- 4.37 A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:
- (a) be in the form set out in schedule 3 of this code and contain the information required by that form, and

- (b) be laid on the table at a meeting of the council as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.

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

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

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

PART 5 NON-PECUNIARY CONFLICTS OF INTEREST

What is a non-pecuniary conflict of interest?

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

Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the general manager, such a disclosure is to be made to the staff member's manager. In the case of the general manager, such a disclosure is to be made to the Chairperson.

- 5.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
- a) a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household
 - b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
 - c) an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
 - d) membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
 - e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
 - f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.
- 5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:
- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.
- 5.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.

- 5.12 If you are a member of staff of council other than the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of your manager. In the case of the general manager, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with and at the direction of the Chairperson.
- 5.13 Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.
- 5.14 Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

Political donations

- 5.15 Councillors should be aware that matters before council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.
- 5.16 Where you are a councillor and have received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
 - b) the major political donor has a matter before council,
- you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A disclosure made under this clause must be recorded in the minutes of the meeting.
- 5.17 For the purposes of this Part:
- a) a “reportable political donation” has the same meaning as it has in section 6 of the *Electoral Funding Act 2018*
 - b) “major political donor” has the same meaning as it has in the *Electoral Funding Act 2018*.
- 5.18 Councillors should note that political donations that are not a “reportable political donation”, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of clause 5.9 and take the appropriate action to manage them.
- 5.19 Despite clause 5.16, a councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

Loss of quorum as a result of compliance with this Part

- 5.20 A councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:
- a) the matter is a proposal relating to:
 - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council’s area, or

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

5.21 ⁸The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

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

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

Other business or employment

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

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

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

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

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

- a) conflict with their official duties
- b) involve using confidential information or council resources obtained through their work with the council including where private use is permitted

⁸ Councillors or council committee members who are precluded from participating under this Part must apply individually in writing to the Minister seeking an exemption. The Minister will consider the requests and will reply in writing of their decision outlining, where necessary, any specific conditions relevant to the matter.

- c) require them to work while on council duty
- d) discredit or disadvantage the council
- e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

Personal dealings with council

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

PART 6 PERSONAL BENEFIT

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

Gifts and benefits

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

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

6.5 You must not:

- a) seek or accept a bribe or other improper inducement
- b) seek gifts or benefits of any kind
- c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
- d) subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9
- e) accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
- f) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer–supplier relationship with the competition organiser
- g) personally benefit from reward points programs when purchasing on behalf of the council.

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

- a) the nature of the gift or benefit
- b) the estimated monetary value of the gift or benefit
- c) the name of the person who provided the gift or benefit, and
- d) the date on which the gift or benefit was received.

6.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical.

Gifts and benefits of token value

6.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$50. 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 \$50
- b) gifts of alcohol that do not exceed a value of \$50
- c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
- d) prizes or awards that do not exceed \$50 in value.

Gifts and benefits of more than token value

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

6.10 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 \$50, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.

- 6.11 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 \$50 in value.
- 6.12 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.

“Cash-like gifts”

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

Improper and undue influence

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

PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALS

Obligations of councillors and administrators

- 7.1 Each council is a body politic. The councillors or administrator/s are the governing body of the council. Under section 223 of the LGA, the role of the governing body of the council includes the development and endorsement of the strategic plans, programs, strategies and policies of the council, including those relating to workforce policy, and to keep the performance of the council under review.
- 7.2 Councillors or administrators must not:
- a) direct council staff other than by giving appropriate direction to the general manager by way of council or committee resolution, or by the Chairperson or administrator exercising their functions under section 226 of the LGA
 - b) in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the staff member or delegate
 - c) contact a member of the staff of the council on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
 - d) contact or issue instructions to any of the council's contractors, including the council's legal advisers, unless by the Chairperson 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 Chairperson and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.

- 7.5 Members of staff of council must:

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

Inappropriate interactions

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

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

- i) councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
- j) council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- k) council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
- l) councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's general manager or, in the case of the Chairperson or administrator, unless they are exercising their functions under section 226 of the LGA.

PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES

Councillor and administrator access to information

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

Councillors and administrators to properly examine and consider information

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

Refusal of access to information

- 8.8 Where the general manager or public officer determine to refuse access to information requested by a councillor or administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the councillor or administrator to perform their official functions (see clause 8.2) and whether they have disclosed a conflict of interest in the matter the

information relates to that would preclude their participation in consideration of the matter (see clause 8.6). The general manager or public officer must state the reasons for the decision if access is refused.

Use of certain council information

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

Use and security of confidential information

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

Personal information

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

Use of council resources

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

- 8.14 Union delegates and consultative committee members may have reasonable access to council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:
- a) the representation of members with respect to disciplinary matters
 - b) the representation of employees with respect to grievances and disputes
 - c) functions associated with the role of the local consultative committee.
- 8.15 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.
- 8.16 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 8.17 You must not use council resources (including council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 8.18 You must not use the council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material:
- a) for the purpose of assisting your election campaign or the election campaign of others, or
 - b) for other non-official purposes.
- 8.19 You must not convert any property of the council to your own use unless properly authorised.

Internet access

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

Council record keeping

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

Councillor access to council buildings

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

PART 9 MAINTAINING THE INTEGRITY OF THIS CODE

Complaints made for an improper purpose

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

Detrimental action

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

- c) discrimination, disadvantage or adverse treatment in relation to employment
- d) dismissal from, or prejudice in, employment
- e) disciplinary proceedings.

Compliance with requirements under the Procedures

- 9.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.
- 9.8 You must comply with a practice ruling made by the Office under the Procedures.
- 9.9 Where you are a councillor or the general manager, you must comply with any council resolution requiring you to take action as a result of a breach of this code.

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

- 9.10 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.
- 9.11 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 9.12 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.
- 9.13 You must not disclose information about a complaint you have made alleging a breach of this code or a matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- 9.14 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

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

PART 10 SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.21

Part 1: Preliminary

Definitions

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

address means:

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

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

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

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

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

interest means:

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

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

occupation includes trade, profession and vocation.

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

property includes money.

return date means:

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

relative includes any of the following:

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

travel includes accommodation incidental to a journey.

Matters relating to the interests that must be included in returns

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

Part 2: Pecuniary interests to be disclosed in returns

Real property

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

Gifts

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

Contributions to travel

12. A person making a return under clause 4.21 of this code must disclose:
 - a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
 - b) the dates on which the travel was undertaken, and
 - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.

13. A financial or other contribution to any travel need not be disclosed under this clause if it:
- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
 - b) was made by a relative of the traveller, or
 - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
 - d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
 - e) was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
 - f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales or to enable the traveller to represent the party within Australia, or
 - g) subject to paragraph (d) it was received prior to the person becoming a councillor or designated person.
14. For the purposes of clause 13 of this schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

Interests and positions in corporations

15. A person making a return under clause 4.21 of this code must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
 - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
 - c) the nature of the interest, or the position held, in each of the corporations, and
 - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
 - b) required to apply its profits or other income in promoting its objects, and
 - c) prohibited from paying any dividend to its members.
17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a councillor or designated person.

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

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

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

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

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

Positions in trade unions and professional or business associations

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

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

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

Dispositions of real property

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

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

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

Sources of income

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

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

27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:
- a) in relation to income from an occupation of the person:
 - (i) a description of the occupation, and
 - (ii) if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and
 - (iii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
 - b) in relation to income from a trust, the name and address of the settlor and the trustee, or
 - c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
29. The source of any income received by the person that they ceased to receive prior to becoming a councillor or designated person need not be disclosed.
30. A fee paid to a councillor or to the Chairperson or deputy Chairperson under sections 248 or 249 of the LGA need not be disclosed.

Debts

31. A person making a return under clause 4.21 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:
- a) on the return date, and
 - b) at any time in the period since 30 June of the previous financial year.
32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.21 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
33. A liability to pay a debt need not be disclosed by a person in a return if:
- a) the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:
 - (i) the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
 - (ii) the amounts to be paid exceeded, in the aggregate, \$500, or
 - b) the person was liable to pay the debt to a relative, or
 - c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
 - d) in the case of a debt arising from the supply of goods or services:

- (i) the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
 - (ii) the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
- e) subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.

Discretionary disclosures

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

PART 11 SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 4.21

'Disclosures by councillors and designated persons' return

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

Important information

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

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

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

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

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

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

as at [return date]

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

[councillor's or designated person's signature]
[date]

A. Real Property

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

B. Sources of income

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

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

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

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

Sources of income I received from a trust since 30 June

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

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

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

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

C. Gifts

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

D. Contributions to travel

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

E. Interests and positions in corporations

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

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

G. Positions in trade unions and professional or business associations

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

H. Debts

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

I. Dispositions of property

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

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

J. Discretionary disclosures

PART 12 SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST SUBMITTED UNDER CLAUSE 4.37

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

Important information

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

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

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

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

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

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

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

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

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

to be held on the day of 20 .

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (the identified land)	
Relationship of identified land to the councillor <i>[Tick or cross one box.]</i>	<input type="checkbox"/> The councillor has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest ⁹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) ¹⁰ <i>[Tick or cross one box]</i>	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control <i>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>	
Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on councillor or associated person <i>[Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]</i>	

⁹ Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.

¹⁰ A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest.

[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]

For revocation



Code of Conduct Procedures

A procedures document for the
administration of the
Code of Conduct

Based on the Office of Local Government
Model Code of Conduct Procedures

(NOTE: To be read in conjunction with the 'Rous County Council Code of Conduct' document).

Version	Purpose and Description	Adopted by Council	Resolution
1.0	Adoption at Council Meeting 20/3/13	20 March 2013	18/13
1.1	Logo change and referencing Rous County Council following merger at 1 July 2016	-	-
2.0	Adopt revised Code of Conduct Procedures (furnished to 17 April 2019 Council meeting with Code of Conduct)	DRAFT	
3.0	Adopted revised Code of Conduct Procedures	17 April 2019	23/19

TABLE OF CONTENTS

PART 1	INTRODUCTION.....	4
PART 2	DEFINITIONS.....	5
PART 3	ADMINISTRATIVE FRAMEWORK.....	7
PART 4	HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?.....	9
PART 5	HOW ARE CODE OF CONDUCT COMPLAINTS TO BE MANAGED?.....	11
PART 6	PRELIMINARY ASSESSMENT OF CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS OR THE GENERAL MANAGER BY CONDUCT REVIEWERS	17
PART 7	INVESTIGATIONS OF CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS OR THE GENERAL MANAGER	22
PART 8	OVERSIGHT AND RIGHTS OF REVIEW	30
PART 9	PROCEDURAL IRREGULARITIES.....	32
PART 10	PRACTICE DIRECTIONS	32
PART 11	REPORTING STATISTICS ON CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS AND THE GENERAL MANAGER..	32
PART 12	CONFIDENTIALITY	33

PART 1 INTRODUCTION

The Model Code of Conduct Procedures are made under section 440AA of the *Local Government Act 1993* ('LGA') and the *Local Government (General) Regulation 2005* ('Regulation'). Section 440AA of the LGA requires every Council and joint organisation to adopt procedures for the administration of their code of conduct that incorporate the provisions of the Model Code of Conduct Procedures.

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

PART 2 DEFINITIONS

In these procedures the following terms have the following meanings:

LGA	the <i>Local Government Act 1993</i>
administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
Chairperson	the chairperson of a county council or a joint organisation
code of conduct	a code of conduct adopted under section 440 of the LGA
code of conduct complaint	a complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures
complainant	a person who makes a code of conduct complaint
complainant councillor	a councillor who makes a code of conduct complaint
complaints coordinator	a person appointed by the general manager under these procedures as a complaint's 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
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
councillor	any person elected or appointed to civic office, including the Chairperson, 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 400O of the LGA
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	the Office of Local Government
investigator	a conduct reviewer
the Regulation	the <i>Local Government (General) Regulation 2005</i>
respondent	a person whose conduct is the subject of investigation by a conduct reviewer under these procedures
wholly advisory committee	a council committee that the council has not delegated any functions to

PART 3 ADMINISTRATIVE FRAMEWORK

The establishment of a panel of conduct reviewers

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

- 3.9 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.10 The council may terminate the panel of conduct reviewers at any time by resolution. Where a panel of conduct reviewers has been terminated, conduct reviewers who were members of the panel may continue to deal with any matter referred to them under these procedures prior to the termination of the panel until they have finalised their consideration of the matter.
- 3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council if they continue to meet the selection and eligibility criteria for membership of the panel.

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

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

The appointment of complaints coordinators

- 3.17 The general manager must appoint a member of staff of the council or another person (such as, but not limited to, a member of staff of another council or a member of staff of a joint organisation or other regional body associated with the council), to act as a complaint's 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 complaint's 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 complaint's coordinator is to:
- a) coordinate the management of complaints made under the council's code of conduct
 - b) liaise with and provide administrative support to a conduct reviewer
 - c) liaise with the Office and
 - d) arrange the annual reporting of code of conduct complaints statistics.

PART 4 HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?

What is a code of conduct complaint?

- 4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that shows or tends to show conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct if proven.
- 4.2 The following are not "code of conduct complaints" for the purposes of these procedures:
- a) complaints about the standard or level of service provided by the council or a council official
 - b) complaints that relate solely to the merits of a decision made by the council or a council official or the exercise of a discretion by the council or a council official
 - c) complaints about the policies or procedures of the council
 - d) complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council's code of conduct.
- 4.3 Only code of conduct complaints are to be dealt with under these procedures. Complaints that do not satisfy the definition of a code of conduct complaint are to be dealt with under the council's routine complaints management processes.

When must a code of conduct complaint be made?

- 4.4 A code of conduct complaint must be made within 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 Chairperson 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 Chairperson in writing. This clause does not operate to prevent a person from making a complaint about the general manager to an external agency.
- 4.12 Where a code of conduct complaint about the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.13 In making a code of conduct complaint about the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.14 The Chairperson 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 Chairperson 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 Chairpersons of their functions under this Part

- 5.1 A general manager or Chairperson 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 Chairperson are also to be taken to be references to their delegates.

Consideration of complaints by general managers and Chairpersons

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

What complaints may be declined at the outset?

- 5.3 Without limiting any other provision in these procedures, the general manager or, in the case of a complaint about the general manager, the Chairperson, may decline to deal with a complaint under these procedures where they are satisfied that the complaint:
- a) is not a code of conduct complaint, or
 - b) subject to clause 4.5, is not made within 3 months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct, or
 - c) is trivial, frivolous, vexatious or not made in good faith, or
 - d) relates to a matter the substance of which has previously been considered and addressed by the council and does not warrant further action, or
 - e) is not made in a way that would allow the alleged conduct and any alleged breaches of the council's code of conduct to be readily identified.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 5.24 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.25 Where the general manager resolves a code of conduct complaint under clause 5.24 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.26 The general manager must refer all code of conduct complaints about councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaint's coordinator.

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

- 5.27 The Chairperson 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 Chairperson refers a complaint to the Office under clause 5.27, the Chairperson must notify the complainant of the referral in writing.
- 5.29 The Chairperson 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 Chairperson decides to take no action in relation to a code of conduct complaint about the general manager, the Chairperson must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.31 Where the Chairperson considers it to be practicable and appropriate to do so, the Chairperson 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 Chairperson resolves a code of conduct complaint under clause 5.31 to the Chairperson's satisfaction, the Chairperson 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 Chairperson 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 complaint's coordinator.

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

5.34 Where the general manager or Chairperson receives a code of conduct complaint that alleges a breach of the code of conduct by both the general manager and the Chairperson, the general manager or Chairperson 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 complaint's coordinator under clause 5.26 and clause 5.33.

Referral of code of conduct complaints to external agencies

5.35 The general manager, Chairperson 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, Chairperson 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, Chairperson or conduct reviewer refers a complaint to an external agency under clause 5.35, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.

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

Disclosure of the identity of complainants

5.39 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:

- a) the complainant consents in writing to the disclosure, or
- b) it is generally known that the complainant has made the complaint as a result of the complainant having voluntarily identified themselves as the person who made the complaint, or
- c) it is essential, having regard to procedural fairness requirements, that the identifying information be disclosed, or

- d) a conduct reviewer is of the opinion that disclosure of the information is necessary to investigate the matter effectively, or
 - e) it is otherwise in the public interest to do so.
- 5.40 Clause 5.39 does not apply to code of conduct complaints made by councillors about other councillors or the general manager.
- 5.41 Where a councillor makes a code of conduct complaint about another councillor or the general manager, and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.
- 5.42 A request made by a complainant councillor under clause 5.41 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.
- 5.43 The general manager or Chairperson, 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 Chairperson 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 Chairperson must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.

Special complaints management arrangements

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

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

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

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

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the general manager that have not been referred to an external agency or declined or resolved by the general manager, Chairperson 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 Chairperson.
- 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 Chief Executive of the Office.
- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.
- 6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
- a) they have a conflict of interest in relation to the matter referred to them, or
 - b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
 - c) they or their employer has entered into one or more contracts with the council (other than contracts relating to the exercise of their functions as a conduct reviewer) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a value that, when aggregated, exceeds \$100,000, or
 - d) at the time of the referral, they or their employer are the council's legal service provider or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 5.2 of the Model Code of Conduct).
- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.
- 6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council, including any information about previous proven breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer and advise which conduct reviewer the matter has been referred to.
- 6.9 Conduct reviewers must comply with these procedures in their consideration of matters that have been referred to them and exercise their functions in a diligent and timely manner.
- 6.10 The complaints coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the complaints coordinator is satisfied that the conduct reviewer has failed to:

- a) comply with these procedures in their consideration of the matter, or
- b) comply with a lawful and reasonable request by the complaint's 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 complaint's 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 Chairperson, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
- d) to refer the matter to an external agency
- e) to investigate the matter.

6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.

6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.

6.16 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.

6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.

6.18 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.

- 6.19 The resolution of a code of conduct complaint under clause 6.13, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.
- 6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:
- a) that the complaint is a code of conduct complaint for the purposes of these procedures, and
 - b) that the alleged conduct is sufficiently serious to warrant investigation, 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 investigation, the conduct reviewer is to consider the following:
- a) the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
 - b) the likely impact of the alleged conduct on the reputation of the council and public confidence in it
 - c) whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
 - d) any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.24 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator and notify the complaints coordinator in writing of the outcome of their assessment.
- 6.25 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.

Referral back to the general manager or Chairperson for resolution

- 6.26 Where the conduct reviewer determines to refer a matter back to the general manager or to the Chairperson 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 Chairperson, recommending the means by which the complaint may be resolved.

- 6.27 The conduct reviewer must consult with the general manager or Chairperson prior to referring a matter back to them under clause 6.13(c).
- 6.28 The general manager or Chairperson 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 Chairperson under clause 6.13(c), the general manager or, in the case of a complaint about the general manager, the Chairperson, 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 Chairperson under clause 6.13(c), the general manager, or, in the case of a complaint about the general manager, the Chairperson, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

Complaints assessment criteria

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

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

What matters may a conduct reviewer investigate?

- 7.1 A conduct reviewer (hereafter referred to as an “investigator”) may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 7.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or 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 Chairperson.
- 7.3 The general manager or the Chairperson 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 at least 14 days or such other period specified by the investigator in the notice, and
 - f) provide the respondent the opportunity to address the investigator on the matter within such reasonable time specified in the notice.
- 7.5 The respondent may, within 7 days of receipt of the notice of investigation, request in writing that the investigator provide them with such further information they consider necessary to assist them to identify the substance of the allegation against them. An investigator will only be obliged to provide such information that the investigator considers reasonably necessary for the respondent to identify the substance of the allegation against them.
- 7.6 An investigator may at any time prior to issuing a draft report, issue an amended notice of investigation to the respondent in relation to the matter referred to them.
- 7.7 Where an investigator issues an amended notice of investigation, they must provide the respondent with a further opportunity to make a written submission in response to the amended notice of investigation within at least 14 days or such other period 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 Chairperson. 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 at least 14 days or such other period specified by the investigator in the notice.

Written and oral submissions

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

How are investigations to be conducted?

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

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

- 7.20 At any time after an investigator has issued a notice of investigation and before they have issued a draft report, an investigator may determine to:
- a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
 - b) refer the matter to the general manager, or, in the case of a complaint about the general manager, to the Chairperson, 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 Chairperson, 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 at least 14 days or such other period specified by the investigator.
- 7.28 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within at least 14 days or such other period specified by the investigator.

- 7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the respondent or an affected person, they must provide the respondent or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.
- 7.31 Where the respondent or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

Final investigation reports

- 7.33 Where an investigator issues a notice of investigation they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.
- 7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 7.35 The investigator's final report must:
- a) make findings of fact in relation to the matter investigated, and,
 - b) make a determination that the conduct investigated either,
 - i. constitutes a breach of the code of conduct, or
 - ii. does not constitute a breach of the code of conduct, and
 - c) provide reasons for the determination.
- 7.36 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may make one or more of the following recommendations:
- a) that the council revise any of its policies, practices or procedures
 - b) that the respondent undertake any training or other education relevant to the conduct giving rise to the breach
 - c) that the respondent be counselled for their conduct
 - d) that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative
 - e) that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the recommendation
 - f) that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation

- g) that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the council meeting at which the matter is considered
- h) in the case of a breach by the general manager, that action be taken under the general manager's contract
- i) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA
- j) 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.

7.37 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may make one or more of the following recommendations:

- a) that the council revise any of its policies, practices or procedures
- b) that a person or persons undertake any training or other education.

7.38 In making a recommendation under clause 7.36, the investigator may have regard to the following:

- a) the seriousness of the breach
- b) whether the breach can be easily remedied or rectified
- c) whether the respondent has remedied or rectified their conduct
- d) whether the respondent has expressed contrition
- e) whether there were any mitigating circumstances
- f) the age, physical or mental health or special infirmity of the respondent
- g) whether the breach is technical or trivial only
- h) any previous proven breaches
- i) whether the breach forms part of an ongoing pattern of behaviour
- j) the degree of reckless intention or negligence of the respondent
- k) the extent to which the breach has affected other parties or the council as a whole
- l) the harm or potential harm to the reputation of the council or local government in general arising from the conduct
- m) whether the findings and recommendations can be justified in terms of the public interest and would withstand public scrutiny
- n) whether an educative approach would be more appropriate than a punitive one
- o) the relative costs and benefits of taking formal disciplinary action as opposed to taking no action or taking informal action
- p) what action or remedy would be in the public interest.

7.39 Where the investigator proposes to make a recommendation under clause 7.36(j), 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.

- 7.40 At a minimum, the investigator's final report must contain the following information:
- a) a description of the allegations against the respondent
 - b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated
 - c) a statement of reasons as to why the matter warranted investigation (having regard to the criteria specified in clause 6.23)
 - d) a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means
 - e) a description of any attempts made to resolve the matter by use of alternative means
 - f) the steps taken to investigate the matter
 - g) the facts of the matter
 - h) the investigator's findings in relation to the facts of the matter and the reasons for those findings
 - i) the investigator's determination and the reasons for that determination
 - j) any recommendations.
- 7.41 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 Chairperson, and this will finalise consideration of the matter under these procedures.
- 7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraph (a) only, the complaints coordinator must provide a copy of the investigator's report to the general manager. Where the general manager agrees with the recommendation/s, the general manager is responsible for implementing the recommendation/s.
- 7.45 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs (b) or (c) only, 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 Chairperson. The general manager is responsible for arranging the implementation of the recommendation/s where the report relates to a councillor's conduct. The Chairperson is responsible for arranging the implementation of the recommendation/s where the report relates to the general manager's conduct.

7.46 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)), 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.

Consideration of the final investigation report by council

7.47 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 7.36, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)).

7.48 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.

7.49 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.

7.50 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/s.

7.51 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.

7.52 The council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.

7.53 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.

7.54 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.

7.55 The investigator may make additional enquiries for the purpose of preparing a supplementary report.

7.56 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council and the respondent.

- 7.57 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaint's coordinator.
- 7.58 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.
- 7.59 A council may by resolution impose one or more of the following sanctions on a respondent:
- a) that the respondent undertake any training or other education relevant to the conduct giving rise to the breach
 - b) that the respondent be counselled for their conduct
 - c) that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative
 - d) that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the resolution
 - e) that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the resolution
 - f) that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the meeting
 - g) in the case of a breach by the general manager, that action be taken under the general manager's contract for the breach
 - h) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA
 - i) 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.
- 7.60 The council is not obliged to adopt the investigator's recommendation/s. Where the council proposes not to adopt one or more of the investigator's recommendation/s, the council must resolve not to adopt the recommendation/s and state in its resolution the reasons for its decision.
- 7.61 Where the council proposes to impose a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator in their final report, the council must state in its resolution the reasons for its decision.
- 7.62 Where the council resolves not to adopt the investigator's recommendation/s or imposes a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator, the complaints coordinator must notify the Office of the council's decision and the reasons for it.

PART 8 OVERSIGHT AND RIGHTS OF REVIEW

The Office's powers of review

- 8.1 The Office may, at any time, whether or not in response to a request, review the consideration of a matter under a council's code of conduct where it is concerned that a person has failed to comply with a requirement prescribed under these procedures or has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct in their consideration of a matter.
- 8.2 The Office may direct any person, including the council, to defer taking further action in relation to a matter under consideration under the council's code of conduct pending the completion of its review. Any person the subject of a direction must comply with the direction.
- 8.3 Where the Office undertakes a review of a matter under clause 8.1, it will notify the complaints coordinator and any other affected persons, of the outcome of the review.

Complaints about conduct reviewers

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

Practice rulings

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

Review of decisions to impose sanctions

- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.59, paragraph (i), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.

- 8.12 A review under clause 8.11 may be sought on the following grounds:
- a) that the investigator has failed to comply with a requirement under these procedures, or
 - b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or
 - c) that in imposing its sanction, the council has failed to comply with a requirement under these procedures.
- 8.13 A request for a review made under clause 8.11 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.
- 8.14 The Office may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.
- 8.15 The Office may undertake a review of a matter without receiving a request under clause 8.11.
- 8.16 The Office will undertake a review of the matter on the papers. However, the Office may request that the complaints coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Office.
- 8.17 Where a person requests a review under clause 8.11, the Office may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Office.
- 8.18 The Office must notify the person who requested the review and the complaints coordinator of the outcome of the Office's review in writing and the reasons for its decision. In doing so, the Office may comment on any other matters the Office considers to be relevant.
- 8.19 Where the Office considers that the investigator or the council has erred, the Office may recommend that a decision to impose a sanction under these procedures be reviewed.
- 8.20 In the case of a sanction implemented by the general manager or Chairperson under clause 7.45, where the Office recommends that the decision to impose a sanction be reviewed:
- a) the complaints coordinator must provide a copy of the Office's determination in relation to the matter to the general manager or the Chairperson, and
 - b) the general manager or Chairperson must review any action taken by them to implement the sanction, and
 - c) the general manager or Chairperson must consider the Office's recommendation in doing so.
- 8.21 In the case of a sanction imposed by the council by resolution under clause 7.59, 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.

8.22 Where, having reviewed its previous decision in relation to a matter under clause 8.21, the council resolves to reaffirm its previous decision, the council must state in its resolution its reasons for doing so.

PART 9 PROCEDURAL IRREGULARITIES

- 9.1 A failure to comply with these procedures does not, on its own, constitute a breach of the code of conduct, except as may be otherwise specifically provided under the code of conduct.
- 9.2 A failure to comply with these procedures will not render a decision made in relation to a matter invalid where:
 - a) the non-compliance is isolated and/or minor in nature, or
 - b) reasonable steps are taken to correct the non-compliance, or
 - c) reasonable steps are taken to address the consequences of the non-compliance.

PART 10 PRACTICE DIRECTIONS

- 10.1 The Office may at any time issue a practice direction in relation to the application of these procedures.
- 10.2 The Office will issue practice directions in writing, by circular to all councils.
- 10.3 All persons performing a function prescribed under these procedures must consider the Office's practice directions when performing the function.

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

- 11.1 The complaints coordinator must arrange for the following statistics to be reported to the council within 3 months of the end of September of each year:
 - a) the total number of code of conduct complaints made about councillors and the general manager under the code of conduct in the year to September (the reporting period)
 - b) the number of code of conduct complaints referred to a conduct reviewer during the reporting period
 - c) the number of code of conduct complaints finalised by a conduct reviewer at the preliminary assessment stage during the reporting period and the outcome of those complaints
 - d) the number of code of conduct complaints investigated by a conduct reviewer during the reporting period
 - e) without identifying particular matters, the outcome of investigations completed under these procedures during the reporting period

- f) the number of matters reviewed by the Office during the reporting period and, without identifying particular matters, the outcome of the reviews, and
- g) the total cost of dealing with code of conduct complaints made about councillors and the general manager during the reporting period, including staff costs.

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

PART 12 CONFIDENTIALITY

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

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

12.3 Prior to seeking the Office's consent under clause 12.2, the general manager or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission within at least 14 days or such other period specified by the general manager or their delegate, and consider any submission made by them.

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

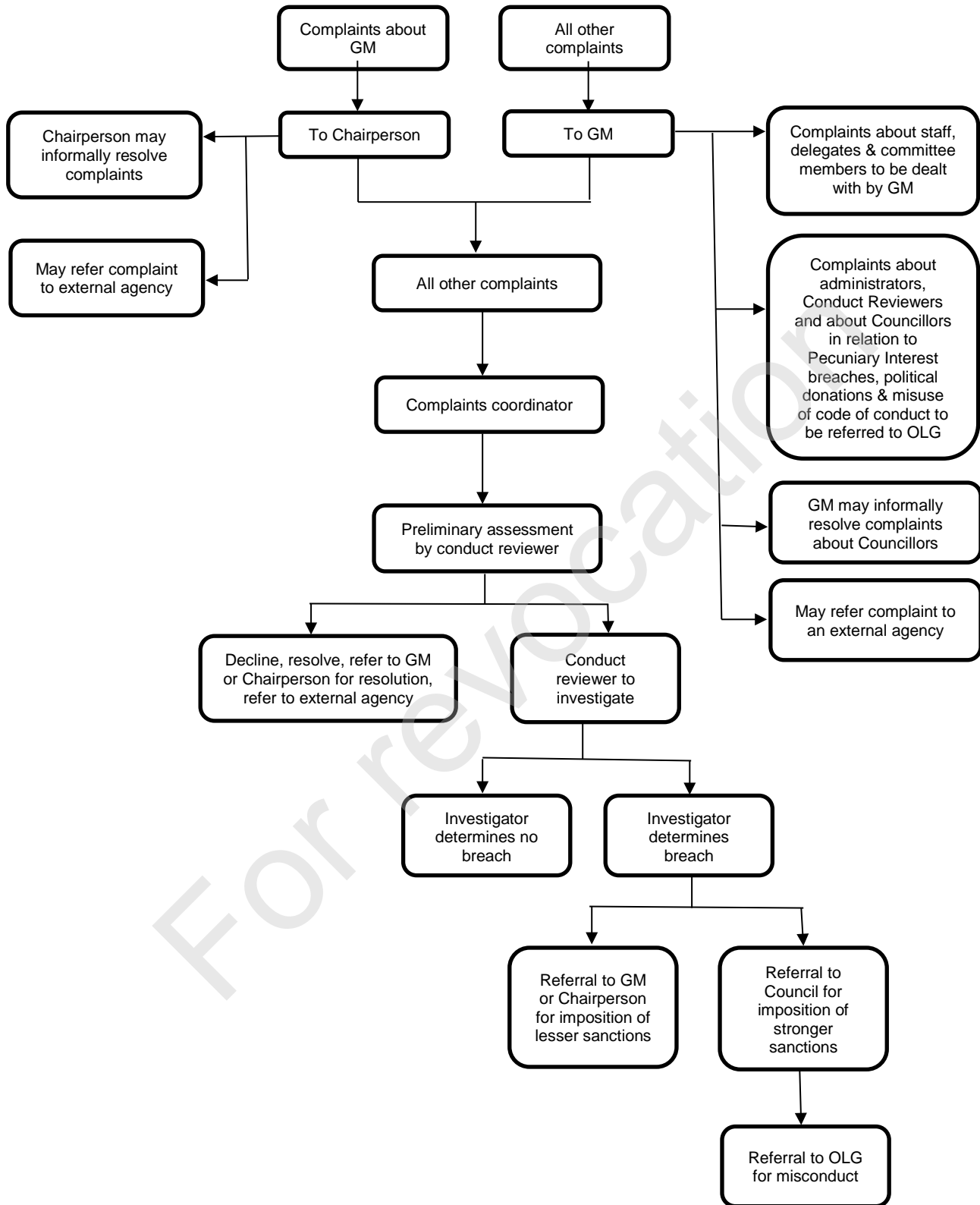
12.5 The general manager or their delegate must give written notice of a determination made under clause 12.2 to:

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

12.6 Any requirement under these procedures that a complainant is to be provided with information about a code of conduct complaint that they have made or purported to make, will not apply to a complainant the subject of a determination made by the general manager or their delegate under clause 12.2.

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

Rous County Council Code of Conduct Procedure Flowchart





Code of Conduct

A code governing the conduct of
Council officials including staff and
Councillors:

based on the Office of Local Government
Model Code of Conduct

(Note: To be read in conjunction with the 'Rous County Council Code of Conduct Procedures' document)



Version	Purpose and Description	Adopted by Council	Resolution
1.0	Adoption at Council Meeting 20/3/13	20 March 2013	18/13
1.1	Logo change and referencing Rous County Council following merger at 1 July 2016	-	-
2.0	Adopt revised Code of Conduct (furnished to 17 April 2019 Council meeting with Code of Conduct Procedures)	DRAFT	
3.0	Adopted revised Code of Conduct	17 April 2019	23/19
<u>4.0</u>	<u>Code of Conduct revised in line with amended 2020 Model Code of Conduct for Local Councils in NSW</u>	<u>DRAFT</u>	
<u>4.1</u>	<u>Adopted revised Code of Conduct</u>	<u>[TBC - 20 April 2022]</u>	<u>TBC</u>

TABLE OF CONTENTS

PART 1..... INTRODUCTION4

PART 2..... DEFINITIONS5

PART 3..... GENERAL CONDUCT OBLIGATIONS7

PART 4..... PECUNIARY INTERESTS10

PART 5..... NON-PECUNIARY CONFLICTS OF INTEREST16

PART 6..... PERSONAL BENEFIT21

PART 7..... RELATIONSHIPS BETWEEN COUNCIL OFFICIALS23

PART 8..... ACCESS TO INFORMATION AND COUNCIL RESOURCES25

PART 9..... MAINTAINING THE INTEGRITY OF THIS CODE28

SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.21.....31

SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 4.2137

SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST SUBMITTED UNDER CLAUSE 4.3741

Deleted: PART 1 INTRODUCTION 4¶
 PART 2 DEFINITIONS 5¶
 PART 3 GENERAL CONDUCT OBLIGATIONS 7¶
 PART 4 PECUNIARY INTERESTS 11¶
 PART 5 NON-PECUNIARY CONFLICTS OF INTEREST 17¶
 PART 6 PERSONAL BENEFIT 22¶
 PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALS 24¶
 PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES 26¶
 PART 9 MAINTAINING THE INTEGRITY OF THIS CODE 29¶
 PART 10 SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.21 31¶
 PART 11 SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 4.21 38¶
 PART 12 SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST SUBMITTED UNDER CLAUSE 4.37 41

Formatted: Default Paragraph Font

PART 1 INTRODUCTION

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

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

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

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

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

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

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

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

To complement the Code and assist with its administration is a procedural document titled ‘Rous County Council Code of Conduct Procedures’.

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

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

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

PART 2 DEFINITIONS

In this code the following terms have the following meanings:

LGA	the <i>Local Government Act 1993</i>
administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
Chairperson	refers to the chairperson of a county council or a joint organisation
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.
conflict of interest	a 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 public duty. These interests may be pecuniary or non-pecuniary.
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 <u>and the council's audit, risk and improvement committee</u>
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 <u>and a person other than a councillor who is a member of the council's audit, risk and improvement committee</u>
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 Chairperson and includes members 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
environmental planning	

Formatted: Font: 11 pt

Formatted: Font: 11 pt

instrument	has the same meaning as it has in the <i>Environmental Planning and Assessment Act 1979</i>
general manager	includes the executive officer of a joint organisation
joint organisation	a joint organisation established under section 400O of the LGA
local planning panel	a local planning panel constituted under the <i>Environmental Planning and Assessment Act 1979</i>
members of staff of a council	includes members of staff of county councils and joint organisations
<u>board member</u>	<u>means a councillor elected to the governing body of a county council, and includes the Chairperson, pursuant to sections 390 and 391 LGA.</u>
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 <i>Local Government (General) Regulation 2005</i>
social media	is any form of media that allows people to communicate and share information using the internet or mobile phones and includes, but is not limited to, blogs, podcasts, websites, applications, online forums, and private messaging services and platforms
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

Commented [LE3]: Included to complement amendments made pursuant to external legal advice.

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 disrepute¹
 - 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 or otherwise amounts to misconduct
 - 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*).

Social Media

- 3.3 ²You must not use social media to post or share comments, photos, videos, electronic recordings or other information that in any way contravenes general behaviour obligations under section 3.1 of this code.³ This includes, but is not limited to, anything 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 the council
 - e) contains allegations of suspected breaches of this code or information about the consideration of a matter under the Procedures,
 - f) could be perceived to be an official comment on behalf of the council where you have not been authorised to make such a comment.

Deleted: , or

Fairness and equity

- 3.4 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- 3.5 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.
- 3.6 An act or omission in good faith, whether or not it involves error, will not constitute a breach of clauses 3.4 or 3.5.

¹ This can include the expression of political views, religious beliefs, sexist or sexually inappropriate commentary, racist or racially insensitive comments, commentary that can incite violence, and other such antagonistic actions or discourse.

² The application of this principle is not limited to the use of Council accounts or devices. It also applies to the use of personal accounts and the use of personal devices.

³ This can also refer to acts of trolling whereby comments are made for the express purpose of provoking an adverse response.

Harassment and discrimination⁴

- 3.7 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.
- 3.8 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.

Commented [LE4]: Mandatory change to align with amended Model CoC

Deleted: sex, sexual identity, orientation, or preference, pregnancy, breastfeeding, race, age, marital or domestic status, disability, infectious disease, carer’s responsibilities or political, religious or other affiliation.

Bullying⁵

- 3.9 You must not engage in bullying behaviour towards others.
- 3.10 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.
- 3.11 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- a) aggressive, threatening or intimidating conduct
 - b) belittling or humiliating comments
 - c) spreading malicious rumours
 - d) teasing, practical jokes or ‘initiation ceremonies’
 - e) exclusion from work-related events
 - f) unreasonable work expectations, including too much or too little work, or work below or beyond a worker’s skill level
 - g) displaying offensive material
 - h) pressure to behave in an inappropriate manner.
- 3.12 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.

⁴ For further guidance, refer to relevant Council procedure

⁵ For further guidance, refer to relevant Council procedure

Work health and safety

- 3.13 All council officials, including councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WH&S Act).⁶ You must comply with your duties under the WH&S Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:
- a) take reasonable care for your own health and safety
 - b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
 - c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WH&S Act and any policies or procedures adopted by the council to ensure workplace health and safety
 - d) cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that has been notified to council staff
 - e) report accidents, incidents, near misses, to the 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 WH&S Act in relation to the same matter.

Land use planning, development assessment and other regulatory functions

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

Binding caucus votes

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

⁶ Refer to Rous County Council Work Health and Safety Policy

Obligations in relation to meetings

- 3.20 You must act in accordance with Council's Code of Meeting Practice during Council and committee meetings.
- 3.21 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.
- 3.22 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).
- 3.23 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.
- 3.24 If you are a councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the council, or of a committee of the council. Without limiting this clause, you must not:
 - a) leave a meeting of the council or a committee for the purposes of depriving the meeting of a quorum, or
 - b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or
 - c) deliberately seek to impede the consideration of business at a meeting.

PART 4 PECUNIARY INTERESTS

What is a pecuniary interest?

- 4.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
 - (a) your interest, or
 - (b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - (c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4 For the purposes of clause 4.3:
 - (a) Your "relative" is any of the following:
 - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child

- ii) your spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
- (b) "de facto partner" has the same meaning as defined in section 21C of the *Interpretation Act 1987*.

4.5 You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):

- (a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
- (b) just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
- (c) just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

What interests do not have to be disclosed?

4.6 You do not have to disclose the following interests for the purposes of this Part:

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

conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:

- i) the performance by the council at the expense of your relative of any work or service in connection with roads or sanitation
- ii) security for damage to footpaths or roads
- iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council, or by or under any contract
- (j) an interest relating to the payment of fees to councillors (including the Chairperson and deputy Chairperson)
- (k) an interest relating to the payment of expenses and the provision of facilities to councillors (including the Chairperson and deputy Chairperson) in accordance with a policy under section 252 of the LGA,
- (l) an interest relating to an election to the office of Chairperson arising from the fact that a fee for the following 12 months has been determined for the office of Chairperson
- (m) an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person⁷
- (n) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or a council committee member
- (o) an interest arising from the appointment of a councillor to a body as a representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate, but excluding an interest arising from the election of a councillor as a member of the governing body of a county council who is employed by, or holds an office or place of profit under, the county council.

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

What disclosures must be made by a designated person?

4.8 Designated persons include:

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

⁷ By means of an example, this can refer to such an instance where a payroll officer who processes the pay of an employee who is also a relative of the payroll officer.

Commented [LE5]: Reflects external legal advice date 01-09-2021 [D21/30334](#)

Deleted: .

4.9 A designated person:

- (a) must prepare and submit written returns of interests in accordance with clauses 4.21, and
- (b) must disclose pecuniary interests in accordance with clause 4.10.

- 4.10 A designated person must disclose in writing to the general manager (or if the person is the general manager, to the council) the nature of any pecuniary interest the person has in any council matter with which the person is dealing as soon as practicable after becoming aware of the interest.
- 4.11 Clause 4.10 does not require a designated person who is a member of staff of the council to disclose a pecuniary interest if the interest relates only to the person's salary as a member of staff, or to their other conditions of employment.
- 4.12 The general manager must, on receiving a disclosure from a designated person, deal with the matter to which the disclosure relates or refer it to another person to deal with.
- 4.13 A disclosure by the general manager must, as soon as practicable after the disclosure is made, be laid on the table at a meeting of the council and the council must deal with the matter to which the disclosure relates or refer it to another person to deal with.

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

- 4.14 A member of staff of council, other than a designated person, must disclose in writing to their manager or the general manager the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.
- 4.15 The staff member's manager or the general manager must, on receiving a disclosure under clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by council advisers?

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

What disclosures must be made by a council committee member?

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

What disclosures must be made by a councillor?

- 4.20 A councillor:
- (a) must prepare and submit written returns of interests in accordance with clause 4.21, and

(b) must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29 where it is applicable.

Board Members of a county council employed by the county council

4.20A Despite anything to the contrary in this code, a board member of a county council who is an employee of the county council or holds an office or place of profit under the county council is taken to have a pecuniary interest in any matter before the county council or a committee of the county council that relates directly or indirectly to their employment with the county council or the office or place of profit they hold under the county council.

Commented [LE6]: Reflects external legal advice dated 01-09-2021 [D21/30334](#)

Disclosure of interests in written returns

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

Disclosure of pecuniary interests at meetings

- 4.28 A councillor or a council committee member who has a pecuniary interest in any matter with which the council is concerned, and who is present at a meeting of the council or committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.

-
- 4.29 The councillor or council committee member must not be present at, or in sight of, the meeting of the council or committee:
- (a) at any time during which the matter is being considered or discussed by the council or committee, or
 - (b) at any time during which the council or committee is voting on any question in relation to the matter.
- 4.30 In the case of a meeting of a board of a joint organisation, a voting representative is taken to be present at the meeting for the purposes of clauses 4.28 and 4.29 where they participate in the meeting by telephone or other electronic means.
- 4.31 A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.
- 4.32 A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council committee member, or the councillor's or council committee member's spouse, de facto partner or relative, is:
- (a) a member of, or in the employment of, a specified company or other body, or
 - (b) a partner of, or in the employment of, a specified person.
- Such a notice is, unless and until the notice is withdrawn or until the end of the term of the council in which it is given (whichever is the sooner), sufficient disclosure of the councillor's or council committee member's interest in a matter relating to the specified company, body or person that may be the subject of consideration by the council or council committee after the date of the notice.
- 4.33 A councillor or a council committee member is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the councillor or council committee member has an interest in the matter of a kind referred to in clause 4.6.
- 4.34 A person does not breach clauses 4.28 or 4.29 if the person did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- 4.35 Despite clause 4.29, a councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- 4.36 Clause 4.29 does not apply to a councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- (a) the matter is a proposal relating to:
 - (i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
 - (ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
 - (b) the pecuniary interest arises only because of an interest of the councillor in the councillor's principal place of residence or an interest of another person (whose interests are relevant under clause 4.3) in that person's principal place of residence, and

- (c) the councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.

- 4.37 A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:
- (a) be in the form set out in schedule 3 of this code and contain the information required by that form, and
 - (b) be laid on the table at a meeting of the council as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.
- 4.38 The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who has a pecuniary interest in a matter with which the council is concerned to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- (a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
 - (b) that it is in the interests of the electors for the area to do so.
- 4.39 A councillor or a council committee member with a pecuniary interest in a matter who is permitted to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter under clause 4.38, must still disclose the interest they have in the matter in accordance with clause 4.28.

PART 5 NON-PECUNIARY CONFLICTS OF INTEREST

What is a non-pecuniary conflict of interest?

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

Managing non-pecuniary conflicts of interest

- 5.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of clause 5.2, you must disclose the relevant private interest you have in relation to the

matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter. In the case of members of council staff other than the general manager, such a disclosure is to be made to the staff member's manager. In the case of the general manager, such a disclosure is to be made to the Chairperson.

- 5.7 If a disclosure is made at a council or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of clause 5.6.
- 5.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 5.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of clause 4.1, but it involves:
- a) a relationship between a council official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of clause 4.4 or another person from the council official's extended family that the council official has a close personal relationship with, or another person living in the same household
 - b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship.
 - c) an affiliation between the council official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a council official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation.
 - d) membership, as the council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the council and the organisation are potentially in conflict in relation to the particular matter
 - e) a financial interest (other than an interest of a type referred to in clause 4.6) that is not a pecuniary interest for the purposes of clause 4.1
 - f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.
- 5.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:
- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination, or
 - b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a council or committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29.

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

Political donations

- 5.15 Councillors should be aware that matters before council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.
- 5.16 Where you are a councillor and have received or knowingly benefitted from a reportable political donation:
- a) made by a major political donor in the previous four years, and
 - b) the major political donor has a matter before council,
- you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses 4.28 and 4.29. A disclosure made under this clause must be recorded in the minutes of the meeting.
- 5.17 For the purposes of this Part:
- a) a “reportable political donation” has the same meaning as it has in section 6 of the *Electoral Funding Act 2018*
 - b) “major political donor” has the same meaning as it has in the *Electoral Funding Act 2018*.
- 5.18 Councillors should note that political donations that are not a “reportable political donation”, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of clause 5.9 and take the appropriate action to manage them.
- 5.19 Despite clause 5.16, a councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

Loss of quorum as a result of compliance with this Part

- 5.20 A councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:
- a) the matter is a proposal relating to:
 - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
 - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council's area, and
 - b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person's principal place of residence, and
 - c) the councillor discloses the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part in accordance with clause 5.6.
- 5.21 ⁸The Minister for Local Government may, conditionally or unconditionally, allow a councillor or a council committee member who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the council or committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:
- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
 - b) that it is in the interests of the electors for the area to do so.
- 5.22 Where the Minister exempts a councillor or committee member from complying with a requirement under this Part under clause 5.21, the councillor or committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with clause 5.6.

Other business or employment

- 5.23 The general manager must not engage, for remuneration, in private employment, contract work or other business outside the service of the council without the approval of the council.
- 5.24 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council or that might conflict with the staff member's council duties unless they have notified the general manager in writing of the employment, work or business and the general manager has given their written approval for the staff member to engage in the employment, work or business.
- 5.25 The general manager may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council, or that might conflict with the staff member's council duties.

⁸ Councillors or council committee members who are precluded from participating under this Part must apply individually in writing to the Minister seeking an exemption. The Minister will consider the requests and will reply in writing of their decision outlining, where necessary, any specific conditions relevant to the matter.

- 5.26 A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council if prohibited from doing so.
- 5.27 Members of staff must ensure that any outside employment, work or business they engage in will not:
- a) conflict with their official duties
 - b) involve using confidential information or council resources obtained through their work with the council including where private use is permitted
 - c) require them to work while on council duty
 - d) discredit or disadvantage the council
 - e) pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

Personal dealings with council

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

Supplementary provisions applicable to board members of a county council

5.30 Attendance at public meetings –

Deleted: ¶

Board members should avoid attending, or speaking at, public meetings organised by members of the community or a constituent council about matters that are currently before or is likely to come before the County Council unless the relevant meeting has been organised at the request of the County Council or the County Council has authorised the Board member to attend or speak at the meeting. In circumstances where Board members are not authorised to attend or speak at a meeting they should decline any invitation to attend the meeting and advise the meeting organisers to make a submission to the County Council and register to address the Board at its meeting.

5.31 Previous involvement in matters at constituent council –

Board members will generally be considered to have a significant non-pecuniary conflict of interest where they have deliberated or voted on, or otherwise considered, a matter, and/or been present when such consideration is undertaken, in their role as a councillor of a constituent council and that matter, or a related matter, subsequently comes before the County Council for consideration.

5.32 Private dealings about matters with constituent council –

Board members must not expect or request preferential treatment in relation to any matter concerning a constituent council in which they have a private interest because of their role as a Board member. Board members will generally be considered to have a significant non-pecuniary conflict of interest if a matter in respect of which they have had private dealings with a constituent council subsequently comes before the County Council for consideration.

5.33 Communicating or representing County Council's position on matters to constituent councils –

Board members must not purport to communicate or represent the County Council's position on any matter to constituent councils contrary to any official statement or communication made by the Chairperson, General Manager or other person authorised by the County Council, or unless authorised by the County Council to do so.

5.34 Disclosure of information to constituent councils –

Board members must not, without the County Council's consent or other lawful authority, disclose information obtained in connection with their role as Board members to constituent councils, nor use such information in connection with the performance of their role as councillors of constituent councils.

5.35 Communication with constituent councils –

Board members are not to discuss any matter that is before the County Council with any councillor of a constituent council in circumstances where the councillor or the constituent council has made a submission to the County Council about the matter.

5.36 Lobbying on behalf of constituent councils –

Board members must disclose to the General Manager (outside of Board meetings) or to the Chairperson (in Board meetings) as soon as practicable whether they are lobbying or otherwise promoting the interests of a constituent council in relation to a matter with which the County Council is dealing.

Commented [LE7]: Reflects external legal advice dated 28-10-2020 [D21/29765](#)

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.

Commented [LE8]: Mandatory change to align with Model CoC

Commented [LE9]: Mandatory change to align with Model CoC

Deleted: of token value

Gifts and benefits

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

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

- 6.5 You must not:
 - a) seek or accept a bribe or other improper inducement
 - b) seek gifts or benefits of any kind
 - c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty
 - d) subject to clause 6.7, accept any gift or benefit of more than token value as defined by clause 6.9
 - e) accept an offer of cash or a cash-like gift as defined by clause 6.13, regardless of the amount
 - f) participate in competitions for prizes where eligibility is based on the council being in or entering into a customer–supplier relationship with the competition organiser
 - g) personally benefit from reward points programs when purchasing on behalf of the council.
- 6.6 Where you receive a gift or benefit of any value other than one referred to in clause 6.2, you must disclose this promptly to your manager or the general manager in writing. The recipient, manager, or general manager must ensure that, at a minimum, the following details are recorded in the council’s gift register:
 - a) the nature of the gift or benefit
 - b) the estimated monetary value of the gift or benefit
 - c) the name of the person who provided the gift or benefit, and
 - d) the date on which the gift or benefit was received.
- 6.7 Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the council, unless the nature of the gift or benefit makes this impractical.

Gifts and benefits of token value

- 6.8 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a 12-month period that, when aggregated, do not exceed a value of \$100. They include, but are not limited to:
 - a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$100
 - b) gifts of alcohol that do not exceed a value of \$100
 - c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like
 - d) prizes or awards that do not exceed \$100 in value.

Commented [LE11]: Change in token value to \$100 reflects the Model CoC

Deleted: 50

Deleted: 50

Deleted: 50

Deleted: 50

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.

Deleted: 50

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.

Deleted: 50

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.

Deleted: 50

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

“Cash-like gifts”

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

Improper and undue influence

6.14 You must not use your position to influence other council officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else. A councillor will not be in breach of this clause where they seek to influence other council officials through the proper exercise of their role as prescribed under the LGA.

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

PART 7 RELATIONSHIPS BETWEEN COUNCIL OFFICIALS

Obligations of councillors and administrators

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

7.2 Councillors or administrators must not:

- a) direct council staff other than by giving appropriate direction to the general manager by way of council or committee resolution, or by the Chairperson or administrator exercising their functions under section 226 of the LGA
- b) in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the staff member or delegate

- c) contact a member of the staff of the council on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the general manager
- d) contact or issue instructions to any of the council's contractors, including the council's legal advisers, unless by the Chairperson 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 Chairperson and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.

7.5 Members of staff of council must:

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

Inappropriate interactions

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

- a) councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- b) council staff approaching councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
- c) subject to clause 8.6, council staff refusing to give information that is available to other councillors to a particular councillor
- d) councillors and administrators who have lodged an application with the council, discussing the matter with council staff in staff-only areas of the council
- e) councillors and administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where

the application forms part of the agenda and the councillor has a right to be heard by the panel at the meeting

- f) councillors and administrators being overbearing or threatening to council staff
- g) council staff being overbearing or threatening to councillors or administrators
- h) councillors and administrators making personal attacks on council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media

- i) councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make
- j) council staff providing ad hoc advice to councillors and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community
- k) council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals
- l) councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's general manager or, in the case of the Chairperson or administrator, unless they are exercising their functions under section 226 of the LGA.

PART 8 ACCESS TO INFORMATION AND COUNCIL RESOURCES

Councillor and administrator access to information

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

Councillors and administrators to properly examine and consider information

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

Refusal of access to information

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

Use of certain council information

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

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

Use and security of confidential information

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

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

- a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions
- b) protect confidential information
- c) only release confidential information if you have authority to do so
- d) only use confidential information for the purpose for which it is intended to be used
- e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
- f) not use confidential information with the intention to cause harm or detriment to the council or any other person or body
- g) not disclose any confidential information discussed during a confidential session of a council or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

Personal information

8.12 When dealing with personal information you must comply with:

- a) the *Privacy and Personal Information Protection Act 1998*
- b) the *Health Records and Information Privacy Act 2002*

- c) the Information Protection Principles and Health Privacy Principles
- d) the council's privacy management plan
- e) the Privacy Code of Practice for Local Government

Use of council resources

- 8.13 You must use council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.
- 8.14 Union delegates and consultative committee members may have reasonable access to council resources and information for the purposes of carrying out their industrial responsibilities, including but not limited to:
- a) the representation of members with respect to disciplinary matters
 - b) the representation of employees with respect to grievances and disputes
 - c) functions associated with the role of the local consultative committee.
- 8.15 You must be scrupulous in your use of council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.
- 8.16 You must avoid any action or situation that could create the appearance that council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 8.17 You must not use council resources (including council staff), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 8.18 You must not use the council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material:
- a) for the purpose of assisting your election campaign or the election campaign of others, or
 - b) for other non-official purposes.
- 8.19 You must not convert any property of the council to your own use unless properly authorised.

Internet access

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

Council record keeping

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

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

Councillor access to council buildings

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

PART 9 MAINTAINING THE INTEGRITY OF THIS CODE

Complaints made for an improper purpose

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

Detrimental action

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

Compliance with requirements under the Procedures

- 9.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.
- 9.8 You must comply with a practice ruling made by the Office under the Procedures.
- 9.9 Where you are a councillor or the general manager, you must comply with any council resolution requiring you to take action as a result of a breach of this code.

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

- 9.10 All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.
- 9.11 You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 9.12 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.
- 9.13 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.
- 9.14 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

- 9.15 Complaints alleging a breach of this Part by a councillor, the general manager or an administrator are to be managed by the Office. This clause does not prevent the Office

Deleted:

from referring an alleged breach of this Part back to the council for consideration in accordance with the Procedures.

- 9.16 Complaints alleging a breach of this Part by other council officials are to be managed by the general manager in accordance with the Procedures.

For approval

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

Formatted: No bullets or numbering

Part 1: Preliminary

Definitions

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

address means:

- 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
- 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
- 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:

- the allotment of shares in a company
- the creation of a trust in respect of property
- the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property
- 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
- the exercise by a person of a general power of appointment over property in favour of another person
- 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:

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

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

occupation includes trade, profession and vocation.

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

property includes money.

return date means:

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

relative includes any of the following:

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

travel includes accommodation incidental to a journey.

Matters relating to the interests that must be included in returns

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

Part 2: Pecuniary interests to be disclosed in returns

Real property

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

Gifts

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

Contributions to travel

12. A person making a return under clause 4.21 of this code must disclose:
 - a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
 - b) the dates on which the travel was undertaken, and
 - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.

-
13. A financial or other contribution to any travel need not be disclosed under this clause if it:
- a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or
 - b) was made by a relative of the traveller, or
 - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
 - d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a 12-month period or less, or
 - e) was a political donation disclosed, or required to be disclosed, under Part 3 of the *Electoral Funding Act 2018*, or
 - f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales or to enable the traveller to represent the party within Australia, or
 - g) subject to paragraph (d) it was received prior to the person becoming a councillor or designated person.
14. For the purposes of clause 13 of this schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

Interests and positions in corporations

15. A person making a return under clause 4.21 of this code must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
 - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
 - c) the nature of the interest, or the position held, in each of the corporations, and
 - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
 - b) required to apply its profits or other income in promoting its objects, and
 - c) prohibited from paying any dividend to its members.
17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company.
18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a councillor or designated person.

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

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

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

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

Positions in trade unions and professional or business associations

21. A person making a return under clause 4.21 of the code must disclose:
- a) the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and
 - b) the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
 - c) a description of the position held in each of the unions and associations.
22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a councillor or designated person.

Dispositions of real property

23. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.
24. A person making a return under clause 4.21 of this code must disclose particulars of each disposition of real property to another person (including the street address of the affected property) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.
25. A disposition of real property need not be disclosed if it was made prior to a person becoming a councillor or designated person.

Sources of income

26. A person making a return under clause 4.21 of this code must disclose:
- a) each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
 - b) each source of income received by the person in the period since 30 June of the previous financial year.

-
27. A reference in clause 26 of this schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:
- a) in relation to income from an occupation of the person:
 - (i) a description of the occupation, and
 - (ii) if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and
 - (iii) if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
 - b) in relation to income from a trust, the name and address of the settlor and the trustee, or
 - c) in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
29. The source of any income received by the person that they ceased to receive prior to becoming a councillor or designated person need not be disclosed.
30. A fee paid to a councillor or to the Chairperson or deputy Chairperson under sections 248 or 249 of the LGA need not be disclosed.

Debts

31. A person making a return under clause 4.21 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:
- a) on the return date, and
 - b) at any time in the period since 30 June of the previous financial year.
32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.21 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
33. A liability to pay a debt need not be disclosed by a person in a return if:
- a) the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:
 - (i) the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
 - (ii) the amounts to be paid exceeded, in the aggregate, \$500, or
 - b) the person was liable to pay the debt to a relative, or
 - c) in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
 - d) in the case of a debt arising from the supply of goods or services:

- (i) the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
 - (ii) the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
- e) subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.

Discretionary disclosures

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

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

Formatted: No bullets or numbering

'Disclosures by councillors and designated persons' return

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

Important information

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

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

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

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

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

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

as at [return date]

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

[councillor's or designated person's signature]
[date]

A. Real Property

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

B. Sources of income

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

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

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

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

Sources of income I received from a trust since 30 June

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

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

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

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

C. Gifts

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

D. Contributions to travel

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

E. Interests and positions in corporations

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

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

G. Positions in trade unions and professional or business associations

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

H. Debts

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

I. Dispositions of property

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

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

J. Discretionary disclosures

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

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

Important information

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

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

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

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

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

This form must be completed by you before the commencement of the council or council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.

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

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

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

to be held on the day of 20 .

Pecuniary interest	
Address of the affected principal place of residence of the councillor or an associated person, company or body (the identified land)	
Relationship of identified land to the councillor <i>[Tick or cross one box.]</i>	<input type="checkbox"/> The councillor has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the councillor has an interest in the land.
Matter giving rise to pecuniary interest ⁹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) ¹⁰ <i>[Tick or cross one box]</i>	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land.
Current zone/planning control <i>[Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land]</i>	
Proposed change of zone/planning control <i>[Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]</i>	
Effect of proposed change of zone/planning control on councillor or associated person <i>[Insert one of the following: "Appreciable financial gain" or "Appreciable financial loss"]</i>	

⁹ Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.

¹⁰ A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest.

[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]

For approval



Code of Conduct Procedures

A procedures document for the
administration of the
Code of Conduct

Based on the Office of Local Government
Model Code of Conduct Procedures

(NOTE: To be read in conjunction with the 'Rous County Council Code of Conduct' document).

Version	Purpose and Description	Adopted by Council	Resolution
1.0	Adoption at Council Meeting 20/3/13	20 March 2013	18/13
1.1	Logo change and referencing Rous County Council following merger at 1 July 2016	-	-
2.0	Adopt revised Code of Conduct Procedures (furnished to 17 April 2019 Council meeting with Code of Conduct)	DRAFT	
3.0	Adopted revised Code of Conduct Procedures	17 April 2019	23/19
4.0	<u>Adopted revised Code of Conduct Procedures</u>	<u>TBC</u>	<u>TBD</u>

TABLE OF CONTENTS

<u>PART 1 INTRODUCTION</u>	<u>4</u>
<u>PART 2 DEFINITIONS.....</u>	<u>5</u>
<u>PART 3 ADMINISTRATIVE FRAMEWORK.....</u>	<u>7</u>
<u>PART 4 HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?.....</u>	<u>9</u>
<u>PART 5 HOW ARE CODE OF CONDUCT COMPLAINTS TO BE MANAGED?.....</u>	<u>11</u>
<u>PART 6 PRELIMINARY ASSESSMENT OF CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS OR THE GENERAL MANAGER BY CONDUCT REVIEWERS</u>	<u>17</u>
<u>PART 7 INVESTIGATIONS OF CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS OR THE GENERAL MANAGER</u>	<u>22</u>
<u>PART 8 OVERSIGHT AND RIGHTS OF REVIEW</u>	<u>28</u>
<u>PART 9 PROCEDURAL IRREGULARITIES.....</u>	<u>30</u>
<u>PART 10 PRACTICE DIRECTIONS.....</u>	<u>30</u>
<u>PART 11 REPORTING STATISTICS ON CODE OF CONDUCT COMPLAINTS ABOUT COUNCILLORS AND THE GENERAL MANAGER..</u>	<u>31</u>
<u>PART 12 CONFIDENTIALITY</u>	<u>31</u>

Deleted: PART 1 INTRODUCTION 4¶
PART 2 DEFINITIONS 5¶
PART 3 ADMINISTRATIVE FRAMEWORK 7¶
PART 4 HOW MAY CODE OF CONDUCT COMPLAINTS BE
MADE? 9¶
PART 5 HOW ARE CODE OF CONDUCT COMPLAINTS TO
BE MANAGED? 11¶
PART 6 PRELIMINARY ASSESSMENT OF CODE OF
CONDUCT COMPLAINTS ABOUT COUNCILLORS OR THE
GENERAL MANAGER BY CONDUCT REVIEWERS 17¶
PART 7 INVESTIGATIONS OF CODE OF CONDUCT
COMPLAINTS ABOUT COUNCILLORS OR THE GENERAL
MANAGER 22¶
PART 8 OVERSIGHT AND RIGHTS OF REVIEW 30¶
PART 9 PROCEDURAL IRREGULARITIES 32¶
PART 10 PRACTICE DIRECTIONS 32¶
PART 11 REPORTING STATISTICS ON CODE OF
CONDUCT COMPLAINTS ABOUT COUNCILLORS AND THE
GENERAL MANAGER 32¶
PART 12 CONFIDENTIALITY 33¶

PART 1 INTRODUCTION

The Model Code of Conduct Procedures are made under section 440AA of the *Local Government Act 1993* ('LGA') and the *Local Government (General) Regulation 2005* ('Regulation'). Section 440AA of the LGA requires every Council and joint organisation to adopt procedures for the administration of their code of conduct that incorporate the provisions of the Model Code of Conduct Procedures.

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

For approval

PART 2 DEFINITIONS

In these procedures the following terms have the following meanings:

LGA	the <i>Local Government Act 1993</i>
administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
Chairperson	the chairperson of a county council or a joint organisation
code of conduct	a code of conduct adopted under section 440 of the LGA
code of conduct complaint	a complaint that is a code of conduct complaint for the purposes of clauses 4.1 and 4.2 of these procedures
complainant	a person who makes a code of conduct complaint
complainant councillor	a councillor who makes a code of conduct complaint
complaints coordinator	a person appointed by the general manager under these procedures as a complaints coordinator
conduct reviewer	a person appointed under these procedures to review allegations of breaches of the code of conduct by councillors or the general manager
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to <u>and the council's audit, risk and improvement committee</u>
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, <u>and a person other than a councillor who is a member of the council's audit, risk and improvement committee</u>
councillor	any person elected or appointed to civic office, including the Chairperson, 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,

Deleted: '

	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 400O of the LGA
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	the Office of Local Government
investigator	a conduct reviewer
the Regulation	the <i>Local Government (General) Regulation 2005</i>
respondent	a person whose conduct is the subject of investigation by a conduct reviewer under these procedures
wholly advisory committee	a council committee that the council has not delegated any functions to

PART 3 ADMINISTRATIVE FRAMEWORK

The establishment of a panel of conduct reviewers

- 3.1 The council must establish a panel of conduct reviewers. Deleted: by resolution
- 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. Deleted: by resolution
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a conduct reviewer, a person must, at a minimum, meet the following requirements:
- a) an understanding of local government, and
 - b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the *Public Interest Disclosures Act 1994*, and
 - c) knowledge and experience of one or more of the following:
 - i) investigations
 - ii) law
 - iii) public administration
 - iv) public sector ethics
 - v) alternative dispute resolution, and
 - d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.
- 3.6 A person is not eligible to be a conduct reviewer if they are:
- a) a councillor, or
 - b) a nominee for election as a councillor, or
 - c) an administrator, or
 - d) an employee of a council, or
 - e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
 - g) a person who has a conviction for an indictable offence that is not an expired conviction.
- 3.7 A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.
- 3.8 An incorporated or other entity may be appointed to a council's panel of conduct reviewers where the council is satisfied that all the persons who will be undertaking the functions of a conduct reviewer on behalf of the entity meet the selection and eligibility criteria prescribed under this Part.

- 3.9 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.10 The council may terminate the panel of conduct reviewers at any time. Where a panel of conduct reviewers has been terminated, conduct reviewers who were members of the panel may continue to deal with any matter referred to them under these procedures prior to the termination of the panel until they have finalised their consideration of the matter.
- 3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council if they continue to meet the selection and eligibility criteria for membership of the panel.

Deleted: by resolution

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

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

The appointment of complaints coordinators

- 3.17 The general manager must appoint a member of staff of the council or another person (such as, but not limited to, a member of staff of another council or a member of staff of a joint organisation or other regional body associated with the council), to act as a complaints coordinator. Where the complaints coordinator is a member of staff of the council, the complaints coordinator should be a senior and suitably qualified member of staff.
- 3.18 The general manager may appoint other members of staff of the council or other persons (such as, but not limited to, members of staff of another council or members of staff of a joint organisation or other regional body associated with the council), to act as alternates to the complaints coordinator.
- 3.19 The general manager must not undertake the role of complaints coordinator.

Deleted: '

Deleted: '

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.

Deleted: '

PART 4 HOW MAY CODE OF CONDUCT COMPLAINTS BE MADE?

What is a code of conduct complaint?

4.1 For the purpose of these procedures, a code of conduct complaint is a complaint that shows or tends to show conduct on the part of a council official in connection with their role as a council official or the exercise of their functions as a council official that would constitute a breach of the standards of conduct prescribed under the council's code of conduct if proven.

4.2 The following are not "code of conduct complaints" for the purposes of these procedures:

- a) complaints about the standard or level of service provided by the council or a council official
- b) complaints that relate solely to the merits of a decision made by the council or a council official or the exercise of a discretion by the council or a council official
- c) complaints about the policies or procedures of the council
- d) complaints about the conduct of a council official arising from the exercise of their functions in good faith, whether or not involving error, that would not otherwise constitute a breach of the standards of conduct prescribed under the council's code of conduct.

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

When must a code of conduct complaint be made?

4.4 A code of conduct complaint must be made within 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 Chairperson 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 Chairperson in writing. This clause does not operate to prevent a person from making a complaint about the general manager to an external agency.
- 4.12 Where a code of conduct complaint about the general manager cannot be made in writing, the complaint must be confirmed with the complainant in writing as soon as possible after the receipt of the complaint.
- 4.13 In making a code of conduct complaint about the general manager, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.14 The Chairperson 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 Chairperson 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 Chairpersons of their functions under this Part

5.1 A general manager or Chairperson 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 Chairperson are also to be taken to be references to their delegates.

Consideration of complaints by general managers and Chairpersons

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

What complaints may be declined at the outset?

5.3 Without limiting any other provision in these procedures, the general manager or, in the case of a complaint about the general manager, the Chairperson, may decline to deal with a complaint under these procedures where they are satisfied that the complaint:

- a) is not a code of conduct complaint, or
- b) subject to clause 4.5, is not made within 3 months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct, or
- c) is trivial, frivolous, vexatious or not made in good faith, or
- d) relates to a matter the substance of which has previously been considered and addressed by the council and does not warrant further action, or
- e) is not made in a way that would allow the alleged conduct and any alleged breaches of the council's code of conduct to be readily identified.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 5.24 Where the general manager considers it to be practicable and appropriate to do so, the general manager may seek to resolve code of conduct complaints about councillors, other than those requiring referral to the Office under clause 5.20, by alternative means such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour. The resolution of a code of conduct complaint under this clause is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 5.25 Where the general manager resolves a code of conduct complaint under clause 5.24 to the general manager's satisfaction, the general manager must notify the complainant in writing of the steps taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.26 The general manager must refer all code of conduct complaints about councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaints coordinator.

Deleted:

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

- 5.27 The Chairperson 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 Chairperson refers a complaint to the Office under clause 5.27, the Chairperson must notify the complainant of the referral in writing.
- 5.29 The Chairperson 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 Chairperson decides to take no action in relation to a code of conduct complaint about the general manager, the Chairperson must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.31 Where the Chairperson considers it to be practicable and appropriate to do so, the Chairperson 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 Chairperson resolves a code of conduct complaint under clause 5.31 to the Chairperson's satisfaction, the Chairperson 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 Chairperson 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.

Deleted: '

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

5.34 Where the general manager or Chairperson receives a code of conduct complaint that alleges a breach of the code of conduct by both the general manager and the Chairperson, the general manager or Chairperson 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.

Deleted: '

Referral of code of conduct complaints to external agencies

5.35 The general manager, Chairperson 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, Chairperson 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, Chairperson or conduct reviewer refers a complaint to an external agency under clause 5.35, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.

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

Disclosure of the identity of complainants

5.39 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:

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

e) it is otherwise in the public interest to do so.

- 5.40 Clause 5.39 does not apply to code of conduct complaints made by councillors about other councillors or the general manager.
- 5.41 Where a councillor makes a code of conduct complaint about another councillor or the general manager, and the complainant councillor considers that compelling grounds exist that would warrant information that identifies or tends to identify them as the complainant not to be disclosed, they may request in writing that such information not be disclosed.
- 5.42 A request made by a complainant councillor under clause 5.41 must be made at the time they make a code of conduct complaint and must state the grounds upon which the request is made.
- 5.43 The general manager or Chairperson, 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 Chairperson 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 Chairperson must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the *Public Interest Disclosures Act 1994*.

Special complaints management arrangements

- 5.48 The general manager may request in writing that the Office enter into a special complaints management arrangement with the council in relation to code of conduct complaints made by or about a person or persons.
- 5.49 Where the Office receives a request under clause 5.48, it may agree to enter into a special complaints management arrangement if it is satisfied that the number or nature of code of conduct complaints made by or about a person or persons has:

Deleted:

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

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

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

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the general manager that have not been referred to an external agency or declined or resolved by the general manager, Chairperson 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 Chairperson.
- 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.

Deleted: Chief Executive of the

- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.
- 6.4 A conduct reviewer must not accept the referral of a code of conduct complaint where:
- a) they have a conflict of interest in relation to the matter referred to them, or
 - b) a reasonable apprehension of bias arises in relation to their consideration of the matter, or
 - c) they or their employer has entered into one or more contracts with the council (other than contracts relating to the exercise of their functions as a conduct reviewer) in the 2 years preceding the referral, and they or their employer have received or expect to receive payments under the contract or contracts of a value that, when aggregated, exceeds \$100,000, or
 - d) at the time of the referral, they or their employer are the council's legal service provider or are a member of a panel of legal service providers appointed by the council.
- 6.5 For the purposes of clause 6.4(a), a conduct reviewer will have a conflict of interest in a matter where a reasonable and informed person would perceive that they could be influenced by a private interest when carrying out their public duty (see clause 5.2 of the Model Code of Conduct).
- 6.6 For the purposes of clause 6.4(b), a reasonable apprehension of bias arises where a fair-minded observer might reasonably apprehend that the conduct reviewer might not bring an impartial and unprejudiced mind to the matter referred to the conduct reviewer.
- 6.7 Where the complaints coordinator refers a matter to a conduct reviewer, they will provide the conduct reviewer with a copy of the code of conduct complaint and any other information relevant to the matter held by the council, including any information about previous proven breaches and any information that would indicate that the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.8 The complaints coordinator must notify the complainant in writing that the matter has been referred to a conduct reviewer, and advise which conduct reviewer the matter has been referred to.
- 6.9 Conduct reviewers must comply with these procedures in their consideration of matters that have been referred to them and exercise their functions in a diligent and timely manner.
- 6.10 The complaints coordinator may at any time terminate the referral of a matter to a conduct reviewer and refer the matter to another conduct reviewer where the complaints coordinator is satisfied that the conduct reviewer has failed to:
- a) comply with these procedures in their consideration of the matter, or
 - b) comply with a lawful and reasonable request by the complaints coordinator, or

Deleted: '

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 Chairperson, 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.

Deleted:

6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.

6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.

6.16 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.

6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.

6.18 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.

6.19 The resolution of a code of conduct complaint under clause 6.13, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's code of conduct.

6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs

(a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.

6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.

6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:

- a) that the complaint is a code of conduct complaint for the purposes of these procedures, and
- b) that the alleged conduct is sufficiently serious to warrant the formal censure of a councillor under section 440G of the LGA or disciplinary action against the 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.

Deleted: investigation

6.23 In determining whether a matter 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, the conduct reviewer is to consider the following:

Deleted: investigation

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

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

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

Referral back to the general manager or Chairperson for resolution

6.26 Where the conduct reviewer determines to refer a matter back to the general manager or to the Chairperson 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 Chairperson, recommending the means by which the complaint may be resolved.

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

- 6.28 The general manager or Chairperson 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 Chairperson under clause 6.13(c), the general manager or, in the case of a complaint about the general manager, the Chairperson, 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 Chairperson under clause 6.13(c), the general manager, or, in the case of a complaint about the general manager, the Chairperson, must advise the complainant in writing of the steps taken to implement the conduct reviewer's recommendation once these steps have been completed.

Complaints assessment criteria

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

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

What matters may a conduct reviewer investigate?

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

How are investigations to be commenced?

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

Deleted: at least
Deleted: or such other period

Deleted: at least
Deleted: or such other period

- 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.

Deleted: at least

Deleted: or such other period

Written and oral submissions

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

How are investigations to be conducted?

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

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

7.20 At any time after an investigator has issued a notice of investigation and before they have issued their final report, an investigator may determine to:

Deleted: a draft

- a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
- b) refer the matter to the general manager, or, in the case of a complaint about the general manager, to the Chairperson, 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 Chairperson, 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.

Deleted: at least

Deleted: or such other period

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 at least 14 days or such other period specified by the investigator.

- 7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the respondent or an affected person, they must provide the respondent or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.
- 7.31 Where the respondent or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

Final investigation reports

- 7.33 Where an investigator issues a notice of investigation, they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.
- 7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 7.35 The investigator's final report must:
- a) make findings of fact in relation to the matter investigated, and,
 - b) make a determination that the conduct investigated either,
 - i. constitutes a breach of the code of conduct, or
 - ii. does not constitute a breach of the code of conduct, and
 - c) provide reasons for the determination.

7.36 At a minimum, the investigator's final report must contain the following information:

- a) a description of the allegations against the respondent
- b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated
- c) a statement of reasons as to why the matter warranted investigation (having regard to the criteria specified in clause 6.23)
- d) a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means
- e) a description of any attempts made to resolve the matter by use of alternative means
- f) the steps taken to investigate the matter
- g) the facts of the matter
- h) the investigator's findings in relation to the facts of the matter and the reasons for those findings
- i) the investigator's determination and the reasons for that determination
- j) any recommendations.

Formatted: Font: (Default) Arial, 11 pt

Formatted: Font: 11 pt

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 Chairperson, and this will finalise consideration of the matter under these procedures.

7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation under clause 7.37, the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.

Formatted: Font: (Default) Arial, 11 pt

Formatted: Font: 11 pt

Formatted: Font: (Default) Arial, 11 pt

Formatted: Font: 11 pt

Formatted: Font: (Default) Arial, 11 pt

Formatted: Font: 11 pt

Formatted: Font: (Default) Arial, 11 pt

Formatted: Font: 11 pt

Deleted: <#>Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may make one or more of the following recommendations:¶
 that the council revise any of its policies, practices or procedures¶
 that the respondent undertake any training or other education relevant to the conduct giving rise to the breach¶
 that the respondent be counselled for their conduct¶
 that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative¶
 that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the recommendation¶
 that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the recommendation¶
 that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the council meeting at which the matter is considered¶
 in the case of a breach by the general manager, that action be taken under the general manager's contract¶
 in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA¶
 in the case of a breach by a councillor, that the council resolves as follows:¶
 that the councillor be formally censured for the breach under section 440G of the LGA, and¶
 that the matter be referred to the Office for further action under the misconduct provisions of the LGA.¶
 ¶
 Where the investigator determines that the conduct investigated does not constitute a breach of the code of conduct, the investigator may make one or more of the following recommendations:¶
 that the council revise any of its policies, practices or procedures¶
 that a person or persons undertake any training or other education.¶
 ¶
 In making a recommendation under clause 7.36, the investigator may have regard to the following:¶
 the seriousness of the breach¶
 whether the breach can be easily remedied or rectified¶
 whether the respondent has remedied or rectified their conduct ¶
 whether the respondent has expressed contrition¶
 whether there were any mitigating circumstances¶
 the age, physical or mental health or special infirmity of the respondent ¶
 whether the breach is technical or trivial only¶
 any previous proven breaches¶

... [1]

Deleted: or recommendations under clause 7.36, paragraph (a) only

Formatted: Font: (Default) Arial, 11 pt

Formatted: Font: (Default) Arial, 11 pt

Deleted: provide a copy of the investigator's report to the general manager. Where the general manager agrees with the recommendation/s, the general manager is responsible for implementing the recommendation/s.

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.

Formatted: Font: (Default) Arial, 11 pt

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.

Deleted: <#>Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs (b) or (c) only, 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 Chairperson. The general manager is responsible for arranging the implementation of the recommendation/s where the report relates to a councillor's conduct. The Chairperson is responsible for arranging the implementation of the recommendation/s where the report relates to the general manager's conduct.¶

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.

Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.36, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)), 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.¶

7.48 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.

Deleted: 6, paragraphs (d) to (j) (whether or not in conjunction with recommendations made under clause 7.36, paragraphs (a) to (c)).

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.

Deleted: /s

7.50 Once the respondent has made their submission they must absent themselves from the meeting and, where they are a councillor, take no part in any discussion or voting on the matter.

7.51 The council must not invite submissions from other persons for the purpose of seeking to rehear evidence previously considered by the investigator.

7.52 Prior to imposing a sanction, the council may by resolution:

- a) request that the investigator make additional enquiries and/or provide additional information to it in a supplementary report, or
- b) seek an opinion from the Office in relation to the report.

7.53 The council may, by resolution, defer further consideration of the matter pending the receipt of a supplementary report from the investigator or an opinion from the Office.

7.54 The investigator may make additional enquiries for the purpose of preparing a supplementary report.

7.55 Where the investigator prepares a supplementary report, they must provide copies to the complaints coordinator who shall provide a copy each to the council and the respondent.

7.56 The investigator is not obliged to notify or consult with any person prior to submitting the supplementary report to the complaints coordinator.

Deleted: '

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:

Deleted: or more

- 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.

Deleted: <#>that the respondent undertake any training or other education relevant to the conduct giving rise to the breach¶
 that the respondent be counselled for their conduct¶
 that the respondent be removed from membership of a committee of the council or any other body or organisation that the respondent serves on as the council's representative¶
 that the respondent gives an undertaking not to repeat the offending behaviour in such time and form specified by the resolution¶
 that the respondent apologise to any person or organisation affected by the breach in such a time and form specified by the resolution¶
 that findings of inappropriate conduct be made public by publishing the investigator's findings and determination in the minutes of the meeting¶

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.

Formatted: Font: (Default) Arial, 11 pt

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.

Formatted: Indent: Left: 1.02 cm, No bullets or numbering

Deleted: /s

Deleted: one or more of

Deleted: /s

Deleted: /s

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.

Formatted: Font: (Default) Arial, 11 pt

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.

Deleted: <#>Where the council proposes to impose a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator in their final report, the council must state in its resolution the reasons for its decision.¶
 ¶
 Where the council resolves not to adopt the investigator's recommendation/s or imposes a sanction on the respondent under clause 7.59 that is different to the sanction recommended by the investigator, the complaints coordinator must notify the Office of the council's decision and the reasons for it.¶
 ¶

Complaints about conduct reviewers

- 8.4 The general manager or their delegate must refer code of conduct complaints about conduct reviewers to the Office for its consideration.

- 8.5 The general manager must notify the complainant of the referral of their complaint about the conduct reviewer in writing.
- 8.6 The general manager must implement any recommendation made by the Office as a result of its consideration of a complaint about a conduct reviewer.

Practice rulings

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

Review of decisions to impose sanctions

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

Deleted: 9

Deleted: i

Deleted: ¶

8.12 A review under clause 8.11 may be sought on the following grounds:

- a) that the investigator has failed to comply with a requirement under these procedures, or
- b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or
- c) that in imposing its sanction, the council has failed to comply with a requirement under these procedures.

8.13 A request for a review made under clause 8.11 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.

8.14 The Office may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.

8.15 The Office may undertake a review of a matter without receiving a request under clause 8.11.

8.16 The Office will undertake a review of the matter on the papers. However, the Office may request that the complaints coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Office.

8.17 Where a person requests a review under clause 8.11, the Office may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Office.

8.18 The Office must notify the person who requested the review and the complaints coordinator of the outcome of the Office’s review in writing and the reasons for its decision. In doing so, the Office may comment on any other matters the Office considers to be relevant.

8.19 Where the Office considers that the investigator or the council has erred, the Office may recommend that a decision to impose a sanction under these procedures be reviewed. Where the Office recommends that the decision to impose a sanction be reviewed:

a) the complaints coordinator must, where practicable, arrange for the Office’s determination to be tabled at the next ordinary council meeting unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case it must be tabled at the first ordinary council meeting following the election, and

b) the council must:

- i. review its decision to impose the sanction, and
- ii. consider the Office’s recommendation in doing so, and
- iii. resolve to either rescind or reaffirm its previous resolution in relation to the matter.

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

PART 9 PROCEDURAL IRREGULARITIES

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

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

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

PART 10 PRACTICE DIRECTIONS

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

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

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

Formatted: Font: (Default) Arial, 11 pt

Formatted: Font: 11 pt

Formatted: Normal, Justified, Numbered + Level: 3 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Right + Aligned at: 3.49 cm + Tab after: 3.81 cm + Indent at: 3.81 cm

Deleted: ¶
 In the case of a sanction implemented by the general manager or Chairperson under clause 7.45, where the Office recommends that the decision to impose a sanction be reviewed: ¶
 the complaints coordinator must provide a copy of the Office’s determination in relation to the matter to the general manager or the Chairperson, and ¶
 the general manager or Chairperson must review any action taken by them to implement the sanction, and ¶
 the general manager or Chairperson must consider the Office’s recommendation in doing so. ¶
 ¶
 In the case of a sanction imposed by the council by resolution under clause 7.59, where the Office recommends that the decision to impose a sanction be reviewed: ¶
 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 ¶
 the council must: ¶
 review its decision to impose the sanction, and ¶
 consider the Office’s recommendation in doing so, and ¶
 resolve to either rescind or reaffirm its previous resolution in relation to the matter. ¶

Deleted: 21

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

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

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

PART 12 CONFIDENTIALITY

- 12.1 Information about code of conduct complaints and the management and investigation of code of conduct complaints is to be treated as confidential and is not to be publicly disclosed except as may be otherwise specifically required or permitted under these procedures.
- 12.2 Where a complainant publicly discloses information on one or more occasions about a code of conduct complaint they have made or purported to make, the general manager or their delegate may, with the consent of the Office, determine that the complainant is to receive no further information about their complaint and any future code of conduct complaint they make or purport to make.
- 12.3 Prior to seeking the Office's consent under clause 12.2, the general manager or their delegate must give the complainant written notice of their intention to seek the Office's consent, invite them to make a written submission within a period of not less than 14 days specified by the general manager or their delegate, and consider any submission made by them.
- 12.4 In giving its consent under clause 12.2, the Office must consider any submission made by the complainant to the general manager or their delegate.
- 12.5 The general manager or their delegate must give written notice of a determination made under clause 12.2 to:
- a) the complainant

Deleted: at least

Deleted: or such other period

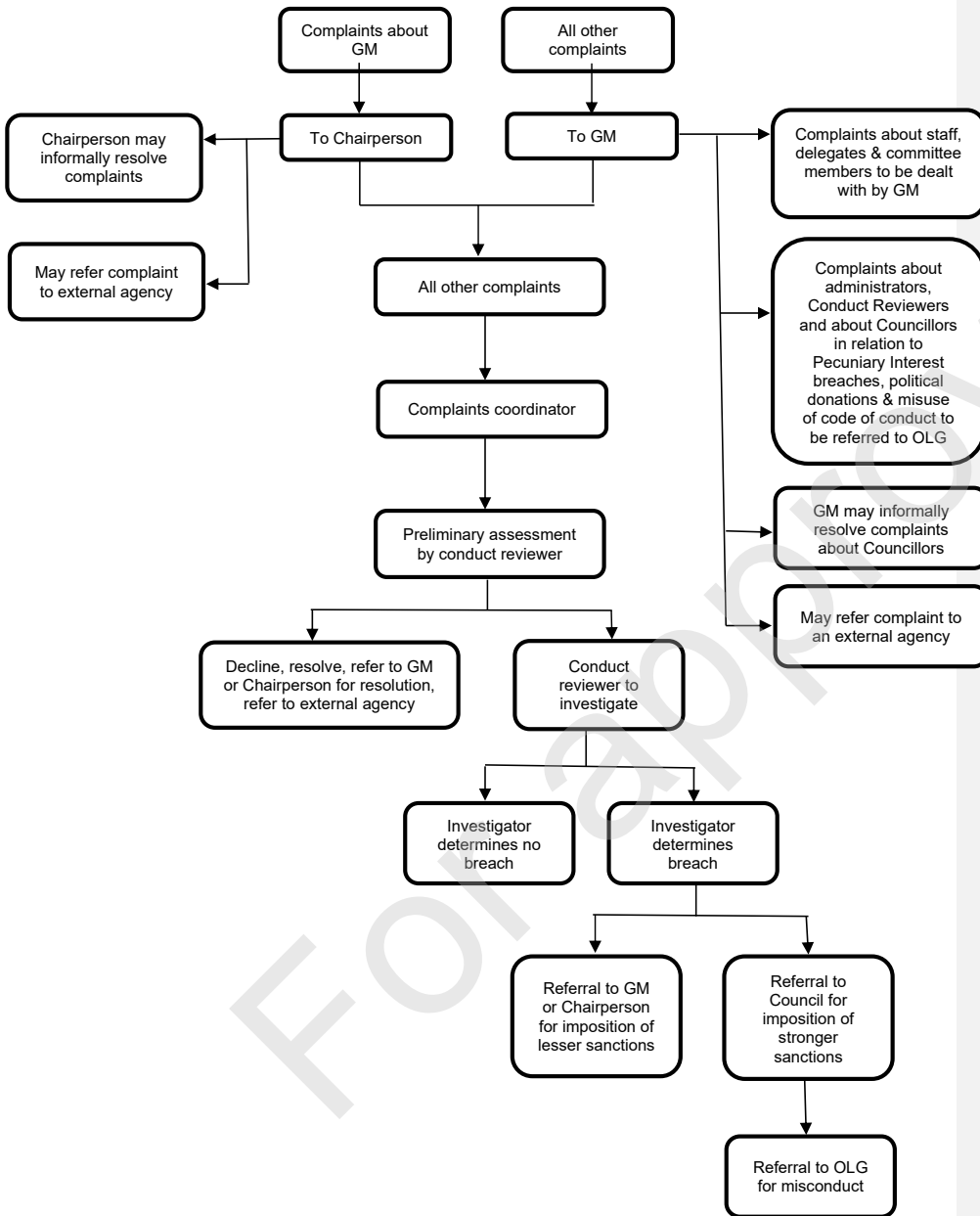
- b) the complaints coordinator
- c) the Office, and
- d) any other person the general manager or their delegate considers should be notified of the determination.

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.

For approval

Rous County Council Code of Conduct Procedure Flowchart





Code of Meeting Practice

A code governing the conduct of
meetings of Council:
based on the Office of Local Government Model
Code of Meeting Practice



Version	Purpose and Description	Date adopted by Council	Resolution no.
1.0	Adopt Code of Meeting Practice	15 March 2000	10196/00
1.1	PUBLIC CONSULTATION DRAFT	15 August 2011	63/11
2.0	Adopt revised Code of Meeting Practice	16 November 2011	101/11
2.1	Insert local rule regarding debate on amendments to motions (4.17)	18 July 2012	53/12
2.2	PUBLIC EXHIBITION DRAFT – Amendment to meeting frequency	19 September 2018	77/18
3.0	Adopt revised Code of Meeting Practice	21 November 2018	103/18
3.1	PUBLIC CONSULTATION DRAFT – following release of new OLG Model Code of Meeting Practice (Council meeting 17 April 2019)	17 April 2019	24/19
4.0	Adopt revised Code of Meeting Practice	19 June 2019	39/19

Table of contents

1	Introduction.....	4
2	Meeting principals	5
3	Before the meeting	5
4	Public forums.....	10
5	Coming together	11
6	The chairperson.....	14
7	Modes of address	15
8	Order of business for ordinary council meetings.....	16
9	Consideration of business at council meetings	16
10	Rules of debate	18
11	Voting	21
12	Committee of the whole.....	22
13	Dealing with items by exception.....	22
14	Closure of council meetings to the public	23
15	Keeping order at meetings.....	27
16	Conflicts of interest	29
17	Decisions of the council.....	29
18	Time limits on council meetings.....	31
19	After the meeting	32
20	Council committees.....	33
21	Irregularities	36
22	Definitions	36
23	♣ Summary: Procedure in relation to motions.....	38

1 Introduction

This Code of Meeting Practice is to be referred to as the 'Rous County Council Code of Meeting Practice' ('the Code') and is made under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2005* (the Regulation).

The Code applies to all meetings of council and committees of council of which all the members are councillors (committees of council). It should be noted that a council committee whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.

Background

Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Code of Meeting Practice for Local Councils in NSW, developed by the Office of Local Government (OLG). Council may also incorporate non-mandatory and other supplementary provisions.

Various provisions found throughout Council's Code are outlined below:

Provision	Explanation	Identified by:
Mandatory	Provisions which must be included in the Code	No symbol
Non-mandatory	Provisions suggested by OLG which may be included in the Code	◆
Non-mandatory (amended)	Utilises or replaces non-mandatory provisions suggested by OLG, to meet organisational needs	♣
Supplementary	Additional provisions drafted by Council to meet organisational needs.	♠

All provisions must be consistent with the mandatory provisions of the Model Code of Meeting Practice for Local Councils in NSW.

Non-mandatory provisions which have not been adopted are marked as "Omitted", so to ensure consistency with numbering throughout the Code.

Making, amending and dealing with the Code must be undertaken in accordance with Chapter 12, Part 2, Division 1 of the *Local Government Act 1993*, including public notice and exhibition requirements.

2 Meeting principals

2.1 Council and committee meetings should be:

Transparent: Decisions are made in a way that is open and accountable.

Informed: Decisions are made based on relevant, quality information.

Inclusive: Decisions respect the diverse needs and interests of the local community.

Principled: Decisions are informed by the principles prescribed under Chapter 3 of the Act.

Trusted: The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.

Respectful: Councillors, staff and meeting attendees treat each other with respect.

Effective: Meetings are well organised, effectively run and skilfully chaired.

Orderly: Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

3 Before the meeting

Timing of ordinary council meetings

3.1 Ordinary meetings of the council will be held on the following occasions:

The third Wednesday of February, April, June, August, October and December at 1:00pm.

♠ On the third Wednesday of the month when meetings are not scheduled to be held, Council will hold briefings or workshops at 1:00pm unless, in consultation with the Chair, the General Manger determines that there is no substantial matter for discussion.

3.2 Omitted – superseded by clause 3.1.

Note: Councils must use either clause 3.1 or 3.2.

Note: Under section 396 of the Act, county councils are required to meet at least four (4) times each year.

Extraordinary meetings

3.3 If the chairperson receives a request in writing, signed by at least two (2) councillors, the chairperson must call an extraordinary meeting of the council to be held as soon as practicable, but in any event, no more than fourteen (14) days after receipt of the request. The chairperson can be one of the two councillors requesting the meeting.

Note: Clause 3.3 reflects section 366 of the Act.

Notice to the public of council meetings

- 3.4 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting of committees of the council.

Note: Clause 3.4 reflects section 9(1) of the Act.

- 3.5 For the purposes of clause 3.4, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.

- 3.6 For the purposes of clause 3.4, notice of more than one (1) meeting may be given in the same notice.

Notice to councillors of ordinary council meetings

- 3.7 The general manager must send to each councillor, at least three (3) days before each meeting of the council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.

Note: Clause 3.7 reflects section 367(1) of the Act.

- 3.8 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form.

Note: Clause 3.8 reflects section 367(3) of the Act.

Notice to councillors of extraordinary meetings

- 3.9 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency.

Note: Clause 3.9 reflects section 367(2) of the Act.

Giving notice of business to be considered at council meetings

- 3.10 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted ten (10) business days before the meeting is to be held.

- 3.11 A councillor may, in writing to the general manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.

- 3.12 ♦ If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.

3.13 Omitted and replaced with:

♣ The chairperson may rule that a motion or an amendment is out of order if, in the view of the chairperson, the proposed motion:

- (a) is vague and equivocal in its language;
- (b) is the direct negative of or is inconsistent with a resolution just passed by the meeting;
- (c) is an amendment which alters the motion to the extent that it effectively reverses the motion it proposes to amend;
- (d) proposes an action that is unlawful;
- (e) is outside the scope of the meeting;
- (f) in the opinion of the chairperson, contains potentially defamatory statements;
- (g) is unnecessary in that it proposes a course of action or policy already resolved upon by the meeting; and
- (h) is potentially vexatious and proposed to impede the orderly transaction of business.

The General Manager may provide factual information on a notice of motion to assist in the discussion of the motion. The General Manager must not comment on the merit of a notice of motion.

Where a motion put before Council is not exactly as presented on the Agenda, the motion must be in writing and provided to the chairperson before the mover may proceed.

If a Councillor, including the seconder to the original motion, proposes a variation to a motion, the chairperson must ask whether any Councillor objects to the variation. If there is no objection, the proposed variation is adopted into the motion by consent of the Council. If there is an objection, the proposed variation must be dealt with as an amendment and seconded and voted on accordingly. Only one amendment is to be considered by Council at any one time.

The chairperson must not accept a motion 'that the motion be now put' if a Councillor is speaking to the motion in accordance with this Code of Meeting Practice or while a question, properly asked by a Councillor, awaits response in accordance with a direction of the chairperson.

Questions with notice

- 3.14 A councillor may, by way of a notice submitted under clause 3.10, ask a question for response by the general manager about the performance or operations of the council.
- 3.15 A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.
- 3.16 The general manager or their nominee may respond to a question with notice submitted under clause 3.14 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

Agenda and business papers for ordinary meetings

- 3.17 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
- ♠ The business paper is to be provided to Councillors no later than the Friday prior to the scheduled Ordinary Council meeting.
- 3.18 The general manager must ensure that the agenda for an ordinary meeting of the council states:
- (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
 - (b) any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
 - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
 - (d) any business of which due notice has been given under clause 3.10.
- 3.19 Nothing in clause 3.18 limits the powers of the chairperson to put a chairperson's minute to a meeting under clause 9.6.
- 3.20 The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.
- 3.21 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public, the general manager must ensure that the agenda of the meeting:
- (a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
 - (b) states the grounds under section 10A(2) of the Act relevant to the item of business.

Note: Clause 3.21 reflects section 9(2A)(a) of the Act.

- 3.22 The general manager must ensure that the details of any item of business which, in the opinion of the general manager, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public, and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

Availability of the agenda and business papers to the public

- 3.23 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and at such other venues determined by the council.
- ♠ The business paper is to be available on Council's website no later than the Monday prior to the scheduled Ordinary Council meeting.

Note: Clause 3.23 reflects section 9(2) and (4) of the Act.

- 3.24 Clause 3.23 does not apply to the business papers for items of business that the general manager has identified under clause 3.21 as being likely to be considered when the meeting is closed to the public.

Note: Clause 3.24 reflects section 9(2A)(b) of the Act.

- 3.25 For the purposes of clause 3.23, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors.

Note: Clause 3.25 reflects section 9(3) of the Act.

- 3.26 A copy of an agenda, or of an associated business paper made available under clause 3.23, may in addition be given or made available in electronic form.

Note: Clause 3.26 reflects section 9(5) of the Act.

Agenda and business papers for extraordinary meetings

- 3.27 The general manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.
- 3.28 Despite clause 3.27, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:
- (a) a motion is passed to have the business considered at the meeting, and
 - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 3.29 A motion moved under clause 3.28(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.
- 3.30 Despite clauses 10.20–10.30, only the mover of a motion moved under clause 3.28(a) can speak to the motion before it is put.
- 3.31 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.28(b) on whether a matter is of great urgency.

Pre-meeting briefing sessions

- 3.32 ◆ Prior to each ordinary meeting of the council, the general manager may arrange a pre-meeting briefing session to brief councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.
- 3.33 ◆ Pre-meeting briefing sessions are to be held in the absence of the public.
- 3.34 Omitted.
- 3.36 Omitted.
- 3.37 Omitted.

4 Public forums

- 4.1 ♣ The council may hold a public forum immediately prior to each ordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting or other matters relevant to Council. Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council. Council will commence an ordinary meeting in accordance with clause 3.1. However, if applications to speak have been received in accordance with clause 4.3, Council will adjourn the meeting to enable the public forum to occur. A public forum is limited to 15 minutes in total, however this amount may be extended at the discretion of the general manager.
- 4.2 ◆ Public forums are to be chaired by the chairperson or their nominee.
- 4.3 ♣ All applications to address Council during the public forum must be authorised by the general manager, and where possible, details of speakers are to be included in the Agenda. To speak at a public forum, a person must first make an application to the council. Applications to speak at the public forum must be received by 10am on the day of a Council meeting, and must identify the item of business on the agenda of the council meeting the person wishes to speak on, and whether they wish to speak 'for' or 'against' the item.
- 4.4 Omitted.
- 4.5 ◆ Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.
- 4.6 ◆ The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 4.7 Omitted.
- 4.8 Omitted
- 4.9 Omitted.
- 4.10 Omitted.
- 4.11 ♣ The general manager or their delegate is to determine the order of speakers at the public forum, with consideration to the custom that speakers are heard alternately, for example, an objector to a matter followed by a supporter.
- 4.12 ♣ Each speaker will be allowed five minutes to address the council. The general manager, at their discretion, may increase a speaker's time limit.
- 4.13 ◆ Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.
- 4.14 ◆ A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument.

- 4.15 ◆ Speakers are under no obligation to answer a question put under clause 4.14. Answers by the speaker, to each question, are to be limited to five minutes.
- 4.16 ◆ Speakers at public forums cannot ask questions of the council, councillors or council staff.
- 4.17 ◆ The general manager or their nominee may, with the concurrence of the chairperson, address the council in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.
- 4.18 ◆ Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.
- 4.19 ◆ When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.
- 4.20 ◆ If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.19, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.
- 4.21 ◆ Clause 4.20 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this code.
- 4.22 ◆ Where a speaker engages in conduct of the type referred to in clause 4.19, the general manager or their delegate may refuse further applications from that person to speak at public forums for such a period as the general manager or their delegate considers appropriate.
- 4.23 Omitted.

Note: Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council. Where a public forum is held as part of a council or committee meeting, it must be conducted in accordance with the other requirements of this code relating to the conduct of council and committee meetings.

5 Coming together

Attendance by councillors at meetings

- 5.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.

Note: A councillor may not attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected or a meeting at which the councillor takes an oath or makes an affirmation of office) until they have taken an oath or made an affirmation of office in the form prescribed under section 233A of the Act.

- 5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting.
- 5.3 Omitted.
- 5.4 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.
- 5.5 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.
- 5.6 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.
- 5.7 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

Note: Clause 5.7 reflects section 234(1)(d) of the Act.

- 5.8 A councillor who intends to attend a meeting of the council despite having been granted a leave of absence should, if practicable, give the general manager at least two (2) days' notice of their intention to attend.

♠ Once a leave of absence has been granted by Council and communicated to the applicant, the leave of absence is not capable of being rescinded by Council.

The quorum for a meeting

- 5.9 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office.

Note: Clause 5.9 reflects section 368(1) of the Act.

- 5.10 Clause 5.9 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

Note: Clause 5.10 reflects section 368(2) of the Act.

- 5.11 A meeting of the council must be adjourned if a quorum is not present:
- (a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
 - (b) within half an hour after the time designated for the holding of the meeting, or
 - (c) at any time during the meeting.

- 5.12 In either case, the meeting must be adjourned to a time, date and place fixed:
- (a) by the chairperson, or
 - (b) in the chairperson's absence, by the majority of the councillors present, or
 - (c) failing that, by the general manager.
- 5.13 The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.
- 5.14 ♦ Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the safety and welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster (such as, but not limited to flood or bushfire), the mayor may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.
- 5.15 ♦ Where a meeting is cancelled under clause 5.14, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.3.

Entitlement of the public to attend council meetings

- 5.16 Everyone is entitled to attend a meeting of the council and committees of the council. The council must ensure that all meetings of the council and committees of the council are open to the public.

Note: Clause 5.16 reflects section 10(1) of the Act.

- 5.17 Clause 5.16 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.
- 5.18 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:
- (a) by a resolution of the meeting, or
 - (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

Note: Clause 5.18 reflects section 10(2) of the Act.

Webcasting of meetings

- 5.19 All meetings of the council and committees of the council are to be webcast on the council's website.
- ♣ Webcasting will occur via one of the following methods (in order of availability):
 - i. audio recording, and placed on Council's website subsequent to the Council meeting;
 - ii. audio-visual recording, and placed on Council's website subsequent to the Council meeting; or
 - iii. live webcasting (if viable).

Note: Councils will be required to webcast meetings from 14 December 2019. Councils that do not currently webcast meetings should take steps to ensure that meetings are webcast by 14 December 2019.

Note: Councils must include supplementary provisions in their adopted codes of meeting practice that specify whether meetings are to be livestreamed or recordings of meetings uploaded on the council's website at a later time. The supplementary provisions must also specify whether the webcast is to comprise of an audio visual recording of the meeting or an audio recording of the meeting.

- 5.20 Clause 5.19 does not apply to parts of a meeting that have been closed to the public under section 10A of the Act.
- 5.21 At the start of each meeting the chairperson is to make a statement informing those in attendance that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements.
- 5.22 A recording of each meeting of the council and committee of the council is to be retained on the council's website for a maximum of 12 months. Recordings of meetings may be disposed of in accordance with the *State Records Act 1998*.

Attendance of the general manager and other staff at meetings

- 5.23 The general manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all of the members are councillors.

Note: Clause 5.23 reflects section 376(1) of the Act.

- 5.24 The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.

Note: Clause 5.24 reflects section 376(2) of the Act.

- 5.25 The general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of employment of the general manager.

Note: Clause 5.25 reflects section 376(3) of the Act.

- 5.26 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the general manager.

6 The chairperson

The chairperson at meetings

- 6.1 The chairperson, or at the request of or in the absence of the chairperson, the deputy chairperson (if any) presides at meetings of the council.

♠ The chairperson of a county council is elected in accordance with section 391 of the Act, to undertake functions in accordance with section 391A of the Act. As a matter of administrative convenience, Council may elect a deputy chairperson. The election of the deputy chairperson will be conducted at the same time and in the same manner as the annual election of the chairperson.

Note: Clause 6.1 reflects section 369(1) of the Act.

- 6.2 If the chairperson and the deputy chairperson (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

Note: Clause 6.2 reflects section 369(2) of the Act.

Election of the chairperson in the absence of the chairperson and deputy chairperson

- 6.3 If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at that meeting.
- 6.4 The election of a chairperson must be conducted:
- (a) by the general manager or, in their absence, an employee of the council designated by the general manager to conduct the election, or
 - (b) by the person who called the meeting or a person acting on their behalf if neither the general manager nor a designated employee is present at the meeting, or if there is no general manager or designated employee.
- 6.5 If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- 6.6 For the purposes of clause 6.5, the person conducting the election must:
- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
 - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- 6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.
- 6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

Chairperson to have precedence

- 6.9 When the chairperson rises or speaks during a meeting of the council:
- (a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
 - (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

7 Modes of address

- 7.1 ♠ The chairperson is to be addressed as 'Mr/Madam Chair' or 'Mr/Madam Chairperson'.
- 7.2 Omitted.
- 7.3 ◆ A councillor is to be addressed as 'Councillor [surname]'.
- 7.4 ◆ A council officer is to be addressed by their official designation or as Mr/Ms [surname].

8 Order of business for ordinary council meetings

- 8.1 Omitted – superseded by 8.2.
- 8.2 ♣ The general order of business for an ordinary meeting of the council shall be:
- 01 Opening meeting*
 - 02 Acknowledgement of Country*
 - 03 Apologies and Leave of Absence*
 - 04 Confirmation of minutes of previous meeting*
 - 05 Disclosure of interest*
 - 06 Chair's minute(s)
 - 07 Reports of committees
 - 08 Reports to council (General Manager and Group Managers, as applicable)
 - 09 Policies
 - 10 Information reports
 - 11 Confidential matters
 - 12 Matters of urgency*
 - 13 Notices of motions/Questions on notice*
 - 14 Close of business*

♣ The items marked with an asterisk (*) are routinely included in the council meeting agenda. Remaining items are included as appropriate based on the council business proposed for discussion at the meeting.

Note: Councils must use either clause 8.1 or 8.2.

- 8.3 The order of business as fixed under clause 8.2 may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

Note: If adopted, Part 13 allows council to deal with items of business by exception.

- 8.4 Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 8.3 may speak to the motion before it is put.

9 Consideration of business at council meetings

Business that can be dealt with at a council meeting

- 9.1 The council must not consider business at a meeting of the council:
- (a) unless a councillor has given notice of the business, as required by clause 3.10, and
 - (b) unless notice of the business has been sent to the councillors in accordance with clause 3.7 in the case of an ordinary meeting or clause 3.9 in the case of an extraordinary meeting called in an emergency.
- 9.2 Clause 9.1 does not apply to the consideration of business at a meeting, if the business:
- (a) is already before, or directly relates to, a matter that is already before the council, or

- (b) is the election of a chairperson to preside at the meeting, or
 - (c) subject to clause 9.9, is a matter or topic put to the meeting by way of a chairperson's minute, or
 - (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.
- 9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:
- (a) a motion is passed to have the business considered at the meeting, and
 - (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.
- 9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

Chairperson's minutes

- 9.6 Subject to clause 9.9, the chairperson at a meeting of the council, may, by minute signed by the chairperson, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.
- 9.7 A chairperson's minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson may move the adoption of a chairperson's minute without the motion being seconded.
- 9.8 A recommendation made in a chairperson's minute put by the chairperson is, so far as it is adopted by the council, a resolution of the council.
- 9.9 A chairperson's minute must not be used to put without notice matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 9.10 Omitted.

Staff reports

- 9.11 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

Reports of committees of council

- 9.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.
- 9.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

Questions

- 9.14 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.10 and 3.14.
- 9.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.
- 9.16 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the general manager at the direction of the general manager.
- 9.17 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.
- 9.18 Councillors must put questions directly, succinctly, respectfully and without argument.
- 9.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

10 Rules of debate

Motions to be seconded

- 10.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

Notices of motion

- 10.2 A councillor who has submitted a notice of motion under clause 3.10 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.3 If a councillor who has submitted a notice of motion under clause 3.10 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.
- 10.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:
- (a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or
 - (b) the chairperson may defer consideration of the motion until the next meeting of the council.

Chairperson's duties with respect to motions

- 10.5 It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.
- 10.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.
- 10.7 Before ruling out of order a motion or an amendment to a motion under clause 10.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.
- 10.8 Any motion, amendment or other matter that the chairperson has ruled out of order is taken to have been lost.

Motions requiring the expenditure of funds

- 10.9 Omitted.

Amendments to motions

- 10.10 An amendment to a motion must be moved and seconded before it can be debated.
- 10.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.
- 10.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.
- 10.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.
- 10.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 10.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 10.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

Foreshadowed motions

- 10.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.

- 10.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.
- 10.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.

Limitations on the number and duration of speeches

- 10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.
- 10.21 A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- 10.22 A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time.
- 10.23 Despite clause 10.22, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 10.24 Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.
- 10.25 Despite clauses 10.20 and 10.21, a councillor may move that a motion or an amendment be now put:
- (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
 - (b) if at least two (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.
- 10.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 10.25. A seconder is not required for such a motion.
- 10.27 If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under clause 10.20.
- 10.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.
- 10.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.

- 10.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.
- 10.31 Omitted.

11 Voting

Voting entitlements of councillors

- 11.1 Each councillor is entitled to one (1) vote.

Note: Clause 11.1 reflects section 370(1) of the Act.

- 11.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.

Note: Clause 11.2 reflects section 370(2) of the Act.

- 11.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.
- 11.4 Omitted.

Voting at council meetings

- 11.5 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.

- 11.6 Omitted – superseded by clause 11.11.

- 11.7 The decision of the chairperson as to the result of a vote is final, unless the decision is immediately challenged and not fewer than two (2) councillors rise and call for a division.

- 11.8 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the council's minutes for the meeting.

- 11.9 When a division on a motion is called, any councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.5 of this code.

- 11.10 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for mayor or deputy mayor is to be by secret ballot.

- 11.11 ♦ All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

Note: If clause 11.11 is adopted, clauses 11.6 – 11.9 and clause 11.13 may be omitted.

♠ **Note: only clause 11.6 is omitted.**

Voting on planning decisions

- 11.12 The general manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.
- 11.13 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the council or a council committee.
- 11.14 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.
- 11.15 Clauses 11.12–11.14 apply also to meetings that are closed to the public.

Note: Clauses 11.12–11.15 reflect section 375A of the Act.

Note: The requirements of clause 11.12 may be satisfied by maintaining a register of the minutes of each planning decision.

12 Committee of the whole

- 12.1 The council may resolve itself into a committee to consider any matter before the council.
- Note: Clause 12.1 reflects section 373 of the Act.**
- 12.2 All the provisions of this code relating to meetings of the council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provisions limiting the number and duration of speeches.
- Note: Clauses 10.20–10.30 limit the number and duration of speeches.**
- 12.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full, but any recommendations of the committee must be reported.
- 12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

13 Dealing with items by exception

- 13.1 ♣ The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution. Only items included under the “Information Reports” agenda item may be considered in this manner.

- 13.2 ◆ Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.
- 13.3 ◆ The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.
- 13.4 ◆ Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.3.
- 13.5 ◆ A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.
- 13.6 ◆ Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.
- 13.7 Omitted.

14 Closure of council meetings to the public

Grounds on which meetings can be closed to the public

- 14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:
- (a) personnel matters concerning particular individuals (other than councillors),
 - (b) the personal hardship of any resident or ratepayer,
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
 - (e) information that would, if disclosed, prejudice the maintenance of law,
 - (f) matters affecting the security of the council, councillors, council staff or council property,
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
 - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
 - (i) alleged contraventions of the council's code of conduct.

Note: Clause 14.1 reflects section 10A(1) and (2) of the Act.

◆ If the Agenda lists more than one matter for discussion in a part of a meeting proposed to be closed to the public, Council must consider each proposed closure of the meeting on its individual merits. For example, Council may consider one recommendation that lists the individual reason(s) for the proposed closure of the meeting, matter by matter.

- 14.2 The council or a committee of the council may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

Note: Clause 14.2 reflects section 10A(3) of the Act.

Matters to be considered when closing meetings to the public

- 14.3 A meeting is not to remain closed during the discussion of anything referred to in clause 14.1:
- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
 - (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

Note: Clause 14.3 reflects section 10B(1) of the Act.

- 14.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 14.1(g) unless the advice concerns legal matters that:
- (a) are substantial issues relating to a matter in which the council or committee is involved, and
 - (b) are clearly identified in the advice, and
 - (c) are fully discussed in that advice.

Note: Clause 14.4 reflects section 10B(2) of the Act.

- 14.5 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in clause 14.2), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in clause 14.1.

Note: Clause 14.5 reflects section 10B(3) of the Act.

- 14.6 For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
- (a) a person may misinterpret or misunderstand the discussion, or
 - (b) the discussion of the matter may:
 - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
 - (ii) cause a loss of confidence in the council or committee.

Note: Clause 14.6 reflects section 10B(4) of the Act.

- 14.7 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the Chief Executive of the Office of Local Government.

Note: Clause 14.7 reflects section 10B(5) of the Act.

Notice of likelihood of closure not required in urgent cases

- 14.8 Part of a meeting of the council, or of a committee of the council, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed, but only if:
- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 14.1, and
 - (b) the council or committee, after considering any representations made under clause 14.9, resolves that further discussion of the matter:
 - (i) should not be deferred (because of the urgency of the matter), and
 - (ii) should take place in a part of the meeting that is closed to the public.

Note: Clause 14.8 reflects section 10C of the Act.

Representations by members of the public

- 14.9 The council, or a committee of the council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

Note: Clause 14.9 reflects section 10A(4) of the Act.

- 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by 10am on the day of the Council meeting at which the matter is to be considered.
- 14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 14.13 No more than four speakers are to be permitted to make representations under clause 14.9.
- 14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council.
- 14.15 The general manager (or their delegate) is to determine the order of speakers.
- 14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than four speakers to make representations in such order as determined by the chairperson.

- 14.17 Each speaker will be allowed five minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

Expulsion of non-councillors from meetings closed to the public

- 14.18 If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a councillor and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.
- 14.19 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.

Information to be disclosed in resolutions closing meetings to the public

- 14.20 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting. The grounds must specify the following:
- (a) the relevant provision of section 10A(2) of the Act,
 - (b) the matter that is to be discussed during the closed part of the meeting,
 - (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

Note: Clause 14.20 reflects section 10D of the Act.

Resolutions passed at closed meetings to be made public

- 14.21 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.
- 14.22 Resolutions passed during a meeting, or a part of a meeting, that is closed to the public must be made public by the chairperson under clause 14.21 during a part of the meeting that is webcast.

Decisions to be made in open meeting

- 14.23 ♠ The council or a council committee, all the members of which are councillors, must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended, or at which any proposal concerning those matters is discussed or considered.

♠ Note: Clause 14.23 reflects section 254 of the Act.

15 Keeping order at meetings

Points of order

- 15.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.
- 15.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.
- 15.3 A point of order must be taken immediately it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The chairperson must then rule on the point of order – either by upholding it or by overruling it.

Questions of order

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

Motions of dissent

- 15.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 15.9 If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 15.10 Despite any other provision of this code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

Acts of disorder

- 15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:
- (a) contravenes the Act or any regulation in force under the Act or this code, or
 - (b) assaults or threatens to assault another councillor or person present at the meeting, or

- (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or
 - (d) insults or makes personal reflections on or imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
 - (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.
- 15.12 The chairperson may require a councillor:
- (a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a) or (b), or
 - (b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or
 - (c) to retract and apologise without reservation for an act of disorder referred to in clauses 15.11(d) and (e).

How disorder at a meeting may be dealt with

- 15.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

Expulsion from meetings

- 15.14 Omitted – superseded by clause 15.15.
- 15.15 ◆ All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of the council or the committee of the council.
- 15.16 ◆ Clause 15.15 does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.
- 15.17 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.
- 15.18 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.
- 15.19 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.

- 15.20 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

Use of mobile phones and the unauthorised recording of meetings

- 15.21 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.
- 15.22 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.
- 15.23 Any person who contravenes or attempts to contravene clause 15.22, may be expelled from the meeting as provided for under section 10(2) of the Act.
- 15.24 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

16 Conflicts of interest

- 16.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at public forums, meetings of the council, committees of the council and any briefings or workshops of council in accordance with the council's code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded either:
- in the minutes of the meeting at which the declaration was made; or
 - via other written record in the case of public forums, briefings or workshops of Council, and include details of how the conflict was managed.

17 Decisions of the council

Council decisions

- 17.1 A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

Note: Clause 17.1 reflects section 371 of the Act.

- 17.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

Rescinding or altering council decisions

- 17.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.10.

Note: Clause 17.3 reflects section 372(1) of the Act.

- 17.4 If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

Note: Clause 17.4 reflects section 372(2) of the Act.

- 17.5 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.10.

Note: Clause 17.5 reflects section 372(3) of the Act.

- 17.6 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.

Note: Clause 17.6 reflects section 372(4) of the Act.

- 17.7 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.

Note: Clause 17.7 reflects section 372(5) of the Act.

- 17.8 The provisions of clauses 17.5–17.7 concerning lost motions do not apply to motions of adjournment.

Note: Clause 17.8 reflects section 372(7) of the Act.

- 17.9 A notice of motion submitted in accordance with clause 17.6 may only be withdrawn under clause 3.11 with the consent of all signatories to the notice of motion.

- 17.10 Omitted and replaced with:

♠ A notice of motion to rescind a resolution to prevent action proceeding on the resolution must be given verbally to the chairperson and general manager by close of business the day following the relevant Council meeting. The formal written rescission motion signed by three councillors is to be presented to the general manager within 48 hours of the closure of the meeting to prevent action on the resolution to prevent action on the resolution prior to reconsideration of the rescission motion.

- 17.11 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.

Note: Clause 17.11 reflects section 372(6) of the Act.

- 17.12 ♣ Subject to clause 17.7, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:

- (a) a notice of motion signed by three councillors is submitted to the chairperson, and
 - (b) a motion to have the motion considered at the meeting is passed, and
 - (c) the chairperson rules the business that is the subject of the motion is of sufficient urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.
- 17.13 ◆ A motion moved under clause 17.12(b) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.12(b) can speak to the motion before it is put.
- 17.14 ◆ A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.12(c).

Recommitting resolutions to correct an error

- 17.15 ◆ Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:
- (a) to correct any error, ambiguity or imprecision in the council's resolution, or
 - (b) to confirm the voting on the resolution.
- 17.16 ◆ In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.15(a), the councillor is to propose alternative wording for the resolution.
- 17.17 ◆ The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.15(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.
- 17.18 ◆ A motion moved under clause 17.15 can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.
- 17.19 ◆ A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.15.
- 17.20 ◆ A motion moved under clause 17.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

18 Time limits on council meetings

- 18.1 Omitted.
- 18.2 Omitted.
- 18.3 Omitted.
- 18.4 Omitted.
- 18.5 Omitted.

19 After the meeting

Minutes of meetings

19.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.

Note: Clause 19.1 reflects section 375(1) of the Act.

19.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:

- (a) details of each motion moved at a council meeting and of any amendments moved to it,
- (b) the names of the mover and seconder of the motion or amendment,
- (c) whether the motion or amendment was passed or lost, and
- (d) such other matters specifically required under this code.

19.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.

Note: Clause 19.3 reflects section 375(2) of the Act.

19.4 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

19.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting.

Note: Clause 19.5 reflects section 375(2) of the Act.

19.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

19.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.

Access to correspondence and reports laid on the table at, or submitted to, a meeting

19.8 The council and committees of the council must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.

Note: Clause 19.8 reflects section 11(1) of the Act.

19.9 Clause 19.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

Note: Clause 19.9 reflects section 11(2) of the Act.

- 19.10 Clause 19.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

Note: Clause 19.10 reflects section 11(3) of the Act.

- 19.11 Correspondence or reports to which clauses 19.9 and 19.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

Implementation of decisions of the council

- 19.12 The general manager is to implement, without undue delay, lawful decisions of the council.

Note: Clause 19.12 reflects section 335(b) of the Act.

20 Council committees

Application of this Part

- 20.1 This Part only applies to committees of the council whose members are all councillors.

Council committees whose members are all councillors

- 20.2 The council may, by resolution, establish such committees as it considers necessary.
- 20.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.
- 20.4 The quorum for a meeting of a committee of the council is to be:
- (a) such number of members as the council decides, or
 - (b) if the council has not decided a number – a majority of the members of the committee.

Functions of committees

- 20.5 The council must specify the functions of each of its committees when the committee is established but may from time to time amend those functions.

Notice of committee meetings

- 20.6 The general manager must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:
- (a) the time, date and place of the meeting, and
 - (b) the business proposed to be considered at the meeting.
- 20.7 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

Attendance at committee meetings

- 20.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:
- (a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
 - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- 20.9 Clause 20.8 does not apply if all of the members of the council are members of the committee.

Non-members entitled to attend committee meetings

- 20.10 A councillor who is not a member of a committee of the council is entitled to attend, and to speak at a meeting of the committee. However, the councillor is not entitled:
- (a) to give notice of business for inclusion in the agenda for the meeting, or
 - (b) to move or second a motion at the meeting, or
 - (c) to vote at the meeting.

Chairperson and deputy chairperson of council committees

- 20.11 The chairperson of each committee of the council must be:
- (a) the chairperson, or
 - (b) if the chairperson does not wish to be the chairperson of a committee, a member of the committee elected by the council, or
 - (c) if the council does not elect such a member, a member of the committee elected by the committee.
- 20.12 The council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
- 20.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.
- 20.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

Procedure in committee meetings

- 20.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.

- 20.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 20.15.
- 20.17 Omitted.
- 20.18 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

Closure of committee meetings to the public

- 20.19 The provisions of the Act and Part 14 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.
- 20.20 If a committee of the council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting that is closed to the public, the chairperson must make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.
- 20.21 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 20.20 during a part of the meeting that is webcast.

Disorder in committee meetings

- 20.22 The provisions of the Act and this code relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

Minutes of council committee meetings

- 20.23 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:
- (a) details of each motion moved at a meeting and of any amendments moved to it,
 - (b) the names of the mover and seconder of the motion or amendment,
 - (c) whether the motion or amendment was passed or lost, and
 - (d) such other matters specifically required under this code.
- 20.24 ♦ All voting at meetings of committees of the council (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.
- 20.25 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.
- 20.26 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

- 20.27 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.
- 20.28 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 20.29 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.

21 Irregularities

- 21.1 Proceedings at a meeting of a council or a council committee are not invalidated because of:
- (a) a vacancy in a civic office, or
 - (b) a failure to give notice of the meeting to any councillor or committee member, or
 - (c) any defect in the election or appointment of a councillor or committee member, or
 - (d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or
 - (e) a failure to comply with this code.

Note: Clause 21.1 reflects section 374 of the Act.

22 Definitions

the Act	means the <i>Local Government Act 1993</i>
act of disorder	means an act of disorder as defined in clause 15.11 of this code
amendment	in relation to an original motion, means a motion moving an amendment to that motion
audio recorder	any device capable of recording speech
business day	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales
chairperson	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 20.11 of this code
this code	means the council's adopted code of meeting practice
committee of the council	means a committee established by the council in accordance with clause 20.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1

council official	has the same meaning it has in the Model Code of Conduct for Local Councils in NSW
day	means calendar day
division	means a request by two councillors under clause 11.7 of this code requiring the recording of the names of the councillors who voted both for and against a motion
foreshadowed amendment	means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment
foreshadowed motion	means a motion foreshadowed by a councillor under clause 10.17 of this code during debate on an original motion
open voting	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
planning decision	means a decision made in the exercise of a function of a council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act
performance improvement order	means an order issued under section 438A of the Act
quorum	means the minimum number of councillors or committee members necessary to conduct a meeting
the Regulation	means the <i>Local Government (General) Regulation 2005</i>
webcast	a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time
year	means the period beginning 1 July and ending the following 30 June

23 ♠ Summary: Procedure in relation to motions

Motion	Notice?	Seconder required?	Debate	Right of reply	Ref.
General	Yes	Yes	Yes	Yes	10.1-10.4
Amendment	No	Yes	Yes	No	10.10-10.16
Chairperson's Minute	No	No	Yes	Yes	9.6-9.9
Urgency	No	Yes	No	No	9.3-9.5
Rescission/ alteration	Yes	Yes	Yes	Yes	17.3-17.7 s.372 of Act
Urgent rescission/ Alteration	No	Yes	No	No	17.12-17.14
Alteration of order of business	No	Yes	Mover only	No	8.3
Dissent	No	Yes	Mover, Chair only	No	15.8-15.10



Code of Meeting Practice

A code governing the conduct of
meetings of Council:

based on the Office of Local Government Model
Code of Meeting Practice



For approval

Version	Purpose and Description	Date adopted by Council	Resolution no.
1.0	Adopt Code of Meeting Practice	15 March 2000	10196/00
1.1	PUBLIC CONSULTATION DRAFT	15 August 2011	63/11
2.0	Adopt revised Code of Meeting Practice	16 November 2011	101/11
2.1	Insert local rule regarding debate on amendments to motions (4.17)	18 July 2012	53/12
2.2	PUBLIC EXHIBITION DRAFT – Amendment to meeting frequency	19 September 2018	77/18
3.0	Adopt revised Code of Meeting Practice	21 November 2018	103/18
3.1	PUBLIC CONSULTATION DRAFT – following release of new OLG Model Code of Meeting Practice (Council meeting 17 April 2019)	17 April 2019	24/19
4.0	Adopt revised Code of Meeting Practice	19 June 2019	39/19
5.0	PUBLIC CONSULTATION DRAFT – following release of new OLG Model Code of Meeting Practice (Council meeting 15 June 2022)	15 June 2022	TBC
5.0	Adopt revised Code of Meeting Practice	28 July 2022	TBC

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Formatted: Font: 8 pt

Table of contents

1 Introduction.....4

2 Meeting principals5

3 Before the meeting5

4 Public forums10

5 Coming together12

6 The chairperson17

7 Modes of address18

8 Order of business for ordinary council meetings19

9 Consideration of business at council meetings19

10 Rules of debate21

11 Voting.....24

12 Committee of the whole26

13 Dealing with items by exception26

14 Closure of council meetings to the public27

15 Keeping order at meetings30

16 Conflicts of interest33

17 Decisions of the council33

18 Time limits on council meetings35

19 After the meeting36

20 Council committees.....37

21 Irregularities40

22 Definitions40

23 ♦ Summary: Procedure in relation to motions42

Deleted: 18

Deleted: 1 Introduction 4¶

2 Meeting principals 5¶

3 Before the meeting 5¶

4 Public forums 10¶

5 Coming together 11¶

6 The chairperson 14¶

7 Modes of address 15¶

8 Order of business for ordinary council meetings 16¶

9 Consideration of business at council meetings 16¶

10 Rules of debate 18¶

11 Voting 21¶

12 Committee of the whole 22¶

13 Dealing with items by exception 22¶

14 Closure of council meetings to the public 23¶

15 Keeping order at meetings 27¶

16 Conflicts of interest 29¶

17 Decisions of the council 29¶

18 Time limits on council meetings 31¶

19 After the meeting 32¶

20 Council committees 33¶

21 Irregularities 36¶

22 Definitions 36¶

23 ♦ Summary: Procedure in relation to motions 38¶

1 Introduction

This Code of Meeting Practice is to be referred to as the 'Rous County Council Code of Meeting Practice' ('the Code') and is prescribed under section 360 of the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2021* (the Regulation).

Deleted: made

Deleted: 05

The Code applies to all meetings of council and committees of council of which all the members are councillors (committees of council). It should be noted that a council committee whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.

Background

Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Code of Meeting Practice for Local Councils in NSW, developed by the Office of Local Government (OLG). Council may also incorporate non-mandatory and other supplementary provisions.

Various provisions found throughout Council's Code are outlined below:

Provision	Explanation	Identified by:
Mandatory	Provisions which must be included in the Code	No symbol
Non-mandatory	Provisions suggested by OLG which may be included in the Code	◆
Non-mandatory (amended)	Utilises or replaces non-mandatory provisions suggested by OLG, to meet organisational needs	♣
Supplementary	Additional provisions drafted by Council to meet organisational needs.	♠

All provisions must be consistent with the mandatory provisions of the Model Code of Meeting Practice for Local Councils in NSW.

Non-mandatory provisions which have not been adopted are marked as "Omitted", so to ensure consistency with numbering throughout the Code.

Making, amending and dealing with the Code must be undertaken in accordance with Chapter 12, Part 2, Division 1 of the *Local Government Act 1993*, including public notice and exhibition requirements.

2 Meeting principals

2.1 Council and committee meetings should be:

- Transparent:* Decisions are made in a way that is open and accountable.
- Informed:* Decisions are made based on relevant, quality information.
- Inclusive:* Decisions respect the diverse needs and interests of the local community.
- Principled:* Decisions are informed by the principles prescribed under Chapter 3 of the Act.
- Trusted:* The community has confidence that councillors and staff act ethically and make decisions in the interests of the whole community.
- Respectful:* Councillors, staff and meeting attendees treat each other with respect.
- Effective:* Meetings are well organised, effectively run and skilfully chaired.
- Orderly:* Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.

3 Before the meeting

Timing of ordinary council meetings

3.1 ~~Omitted – superseded by clause 3.2.~~

3.2 ~~The council shall, by resolution, set the frequency, time, date and place of its ordinary meetings.~~

~~♣ Should council omit to resolve a meeting schedule, ordinary meetings of council will be held on the third Wednesday of February, April, June, August, October and December at 10:00am.~~

3.2A ~~♣ On the third Wednesday of the month when meetings are not scheduled to be held, Council will hold briefings or workshops commencing at 9:30am, unless, in consultation with the Chair, the General Manger determines that there is no substantial matter for discussion.~~

Deleted: Ordinary meetings of the council will be held on the following occasions: ¶
¶
The third Wednesday of February, April, June, August, October and December at 1:00pm. ¶

Deleted: ♣ On the third Wednesday of the month when meetings are not scheduled to be held, Council will hold briefings or workshops at 1:00pm unless, in consultation with the Chair, the General Manger determines that there is no substantial matter for discussion. ¶

Deleted: Omitted – superseded by clause 3.1.

Formatted: Indent: First line: 0 cm

Deleted: p

Note: Councils must use either clause 3.1 or 3.2.

Note: Under section 396 of the Act, county councils are required to meet at least four (4) times each year.

Extraordinary meetings

3.3 If the chairperson receives a request in writing, signed by at least two (2) councillors, the chairperson must call an extraordinary meeting of the council to be held as soon

as practicable, but in any event, no more than fourteen (14) days after receipt of the request. The chairperson can be one of the two councillors requesting the meeting.

Note: Clause 3.3 reflects section 366 of the Act.

Notice to the public of council meetings

3.4 The council must give notice to the public of the time, date and place of each of its meetings, including extraordinary meetings and of each meeting^s of committees of the council.

Note: Clause 3.4 reflects section 9(1) of the Act.

3.5 For the purposes of clause 3.4, notice of a meeting of the council and of a committee of council is to be published before the meeting takes place. The notice must be published on the council's website, and in such other manner that the council is satisfied is likely to bring notice of the meeting to the attention of as many people as possible.

3.6 For the purposes of clause 3.4, notice of more than one (1) meeting may be given in the same notice.

Notice to councillors of ordinary council meetings

3.7 The general manager must send to each councillor, at least three (3) days before each meeting of the council, a notice specifying the time, date and place at which the meeting is to be held, and the business proposed to be considered at the meeting.

Note: Clause 3.7 reflects section 367(1) of the Act.

3.8 The notice and the agenda for, and the business papers relating to, the meeting may be given to councillors in electronic form, but only if all councillors have facilities to access the notice, agenda and business papers in that form.

Note: Clause 3.8 reflects section 367(3) of the Act.

Notice to councillors of extraordinary meetings

3.9 Notice of less than three (3) days may be given to councillors of an extraordinary meeting of the council in cases of emergency.

Note: Clause 3.9 reflects section 367(2) of the Act.

Giving notice of business to be considered at council meetings

3.10 A councillor may give notice of any business they wish to be considered by the council at its next ordinary meeting by way of a notice of motion. To be included on the agenda of the meeting, the notice of motion must be in writing and must be submitted ten (10) business days before the meeting is to be held.

3.11 A councillor may, in writing to the general manager, request the withdrawal of a notice of motion submitted by them prior to its inclusion in the agenda and business paper for the meeting at which it is to be considered.

3.12 ◆ If the general manager considers that a notice of motion submitted by a councillor for consideration at an ordinary meeting of the council has legal, strategic, financial or policy implications which should be taken into consideration by the meeting, the general manager may prepare a report in relation to the notice of motion for inclusion with the business papers for the meeting at which the notice of motion is to be considered by the council.

3.13 ◆ A notice of motion for the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the notice of motion. If the notice of motion does not identify a funding source, the general manager must either:

- (a) prepare a report on the availability of funds for implementing the motion if adopted for inclusion in the business papers for the meeting at which the notice of motion is to be considered by the council, or
- (b) by written notice sent to all councillors with the business papers for the meeting for which the notice of motion has been submitted, defer consideration of the matter by the council to such a date specified in the notice, pending the preparation of such a report.

Deleted: Omitted and replaced with: ¶

- ◆ The chairperson may rule that a motion or an amendment is out of order if, in the view of the chairperson, the proposed motion:¶
 - (a) is vague and equivocal in its language;¶
 - (b) is the direct negative of or is inconsistent with a resolution just passed by the meeting;¶
 - (c) is an amendment which alters the motion to the extent that it effectively reverses the motion it proposes to amend;¶
 - (d) proposes an action that is unlawful;¶
 - (e) is outside the scope of the meeting;¶
 - (f) in the opinion of the chairperson, contains potentially defamatory statements;¶
 - (g) is unnecessary in that it proposes a course of action or policy already resolved upon by the meeting; and¶
 - (h) is potentially vexatious and proposed to impede the orderly transaction of business.¶

¶ The General Manager may provide factual information on a notice of motion to assist in the discussion of the motion. The General Manager must not comment on the merit of a notice of motion.¶

¶ Where a motion put before Council is not exactly as presented on the Agenda, the motion must be in writing and provided to the chairperson before the mover may proceed.¶

¶ If a Councillor, including the seconder to the original motion, proposes a variation to a motion, the chairperson must ask whether any Councillor objects to the variation. If there is no objection, the proposed variation is adopted into the motion by consent of the Council. If there is an objection, the proposed variation must be dealt with as an amendment and seconded and voted on accordingly. Only one amendment is to be considered by Council at any one time.¶

¶ The chairperson must not accept a motion 'that the motion be now put' if a Councillor is speaking to the motion in accordance with this Code of Meeting Practice or while a question, properly asked by a Councillor, awaits response in accordance with a direction of the chairperson.¶

Questions with notice

- 3.14 A councillor may, by way of a notice submitted under clause 3.10, ask a question for response by the general manager about the performance or operations of the council.
- 3.15 A councillor is not permitted to ask a question with notice under clause 3.14 that comprises a complaint against the general manager or a member of staff of the council, or a question that implies wrongdoing by the general manager or a member of staff of the council.
- 3.16 The general manager or their nominee may respond to a question with notice submitted under clause 3.14 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

Agenda and business papers for ordinary meetings

- 3.17 The general manager must cause the agenda for a meeting of the council or a committee of the council to be prepared as soon as practicable before the meeting.
 - ♣ **Subject to unforeseen circumstances, the General Manager will endeavour to cause the business paper to be provided to Councillors no later than the Wednesday prior to the scheduled Ordinary Council meeting.**
- 3.18 The general manager must ensure that the agenda for an ordinary meeting of the council states:
 - (a) all matters to be dealt with arising out of the proceedings of previous meetings of the council, and
 - (b) any matter or topic that the chairperson proposes, at the time when the agenda is prepared, to put to the meeting, and
 - (c) all matters, including matters that are the subject of staff reports and reports of committees, to be considered at the meeting, and
 - (d) any business of which due notice has been given under clause 3.10.
- 3.19 Nothing in clause 3.18 limits the powers of the chairperson to put a chairperson's minute to a meeting under clause 9.6.
- 3.20 The general manager must not include in the agenda for a meeting of the council any business of which due notice has been given if, in the opinion of the general manager, the business is, or the implementation of the business would be, unlawful. The general manager must report, without giving details of the item of business, any such exclusion to the next meeting of the council.
- 3.21 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the general manager, is likely to take place when the meeting is closed to the public, the general manager must ensure that the agenda of the meeting:
 - (a) identifies the relevant item of business and indicates that it is of such a nature (without disclosing details of the information to be considered when the meeting is closed to the public), and
 - (b) states the grounds under section 10A(2) of the Act relevant to the item of business.

Note: Clause 3.21 reflects section 9(2A)(a) of the Act.

Deleted: _____ Page Break _____
¶

Deleted: ¶

Deleted: is

Commented [LE1]: Tentatively changed to Wednesday as a starting point for discussion

Deleted: Friday

3.22 The general manager must ensure that the details of any item of business which, in the opinion of the general manager, is likely to be considered when the meeting is closed to the public, are included in a business paper provided to councillors for the meeting concerned. Such details must not be included in the business papers made available to the public and must not be disclosed by a councillor or by any other person to another person who is not authorised to have that information.

Deleted: ,

Statement of ethical obligations

3.23 Business papers for all ordinary and extraordinary meetings of the council and committees of the council must contain a statement reminding councillors of their oath or affirmation of office made under section 233A of the Act and their obligations under the council's code of conduct to disclose and appropriately manage conflicts of interest.

Availability of the agenda and business papers to the public

3.24 Copies of the agenda and the associated business papers, such as correspondence and reports for meetings of the council and committees of council, are to be published on the council's website, and must be made available to the public for inspection, or for taking away by any person free of charge at the offices of the council, at the relevant meeting and at such other venues determined by the council.

Deleted: 3

Note: Clause 3.24 reflects section 9(2) and (4) of the Act.

3.25 Clause 3.24 does not apply to the business papers for items of business that the general manager has identified under clause 3.21 as being likely to be considered when the meeting is closed to the public.

Deleted: The business paper is to be available on Council's website no later than the Monday prior to the scheduled Ordinary Council meeting.

Deleted: 3

Deleted: 4

Deleted: 3

Deleted: 4

Note: Clause 3.25 reflects section 9(2A)(b) of the Act.

3.26 For the purposes of clause 3.24, copies of agendas and business papers must be published on the council's website and made available to the public at a time that is as close as possible to the time they are available to councillors (refer to clause 3.17).

Deleted: 5

Deleted: 3

Note: Clause 3.26 reflects section 9(3) of the Act.

Deleted: 5

3.27 A copy of an agenda, or of an associated business paper made available under clause 3.24, may in addition be given or made available in electronic form.

Deleted: 6

Deleted: 3

Note: Clause 3.27 reflects section 9(5) of the Act.

Deleted: 6

Agenda and business papers for extraordinary meetings

3.28 The general manager must ensure that the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.

Deleted: 7

3.29 Despite clause 3.28, business may be considered at an extraordinary meeting of the council, even though due notice of the business has not been given, if:

Deleted: 8

Deleted: 7

- (a) a motion is passed to have the business considered at the meeting, and
- (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

3.30 A motion moved under clause 3.29(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.

Deleted: 29

Deleted: 8

3.31. ~~Despite clauses 10.20–10.30, only the mover of a motion moved under clause 3.29(a) can speak to the motion before it is put.~~

Deleted: 0

Deleted: 8

3.32. ~~A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.29(b) on whether a matter is of great urgency.~~

Deleted: 1

Deleted: 8

Pre-meeting briefing sessions

3.33. ~~◆ Prior to each ordinary meeting of the council, the general manager may arrange a pre-meeting briefing session to brief councillors on business to be considered at the meeting. Pre-meeting briefing sessions may also be held for extraordinary meetings of the council and meetings of committees of the council.~~

Deleted: 2

3.34. ~~◆ Pre-meeting briefing sessions are to be held in the absence of the public.~~

Deleted: 3

3.35. ~~◆ Pre-meeting briefing sessions may be held by audio-visual link.~~

Deleted: 4

Deleted: Omitted.

3.36. ~~◆ The general manager or a member of staff nominated by the general manager is to preside at pre-meeting briefing sessions.~~

Deleted: Omitted.

3.37. ~~◆ Councillors must not use pre-meeting briefing sessions to debate or make preliminary decisions on items of business they are being briefed on, and any debate and decision-making must be left to the formal council or committee meeting at which the item of business is to be considered.~~

Deleted: Omitted.

3.38. ~~◆ Councillors (including the chairperson) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of a briefing at a pre-meeting briefing session, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at pre-meeting briefing sessions and how the conflict of interest was managed by the councillor who made the declaration.~~

4 Public forums

4.1. ~~♣ The council may hold a public forum immediately prior to, or as part of, each ordinary and extraordinary meeting of the council for the purpose of hearing oral submissions from members of the public on items of business to be considered at the meeting. Subject to clause 4.1A, the public forum will be limited to 15 minutes in total.~~

Formatted: Not Highlight

Deleted:

Deleted: or other matters relevant to Council

Deleted: Public forums may also be held prior to extraordinary council meetings and meetings of committees of the council. Council will commence an ordinary meeting in accordance with clause 3.1. However, if applications to speak have been received in accordance with clause 4.3, Council will adjourn the meeting to enable the public forum to occur. ...

Deleted: A public forum is limited to 15 minutes in total, however this amount may be extended at the discretion of the general manager.

4.1A. ~~♣ The General Manager, in consultation with the chairperson, may determine to hold additional public forums or to extend the total time of a public forum if, in the opinion of the General Manager with the concurrence of the chairperson, the circumstances warrant it.~~

Formatted: Not Highlight

Formatted: Not Highlight

Formatted: Not Highlight

4.1B. ~~♣ In the event a council meeting is cancelled (refer to clause 5.14) the corresponding public forum will be taken to also be cancelled.~~

4.2. ~~◆ Public forums may be held by audio-visual link.~~

Deleted: 3

4.3. ~~◆ Public forums are to be chaired by the chairperson or their nominee.~~

Deleted: ♣ All applications to address Council during the public forum must be authorised by the general manager, and where possible, details of speakers are to be included in the Agenda.

4.4. ~~To speak at a public forum, a person must first make an application to the council in the approved form. Applications to speak at the public forum must be received by 10:00am on the day prior to a Council meeting (or two days prior to the Council meeting if presenting material in accordance with clause 4.11) and must identify the item of business on the agenda of the council meeting the person wishes to speak~~

Deleted: 10am

Deleted: of

Deleted:

Deleted: ,

on, and whether they wish to speak 'for' or 'against' the item.

- 4.5. ~~◆ A person may apply to speak on no more than two items of business on the agenda of the council meeting.~~ Deleted: 4
Deleted: Omitted.
- 4.6. ~~◆ Legal representatives acting on behalf of others are not to be permitted to speak at a public forum unless they identify their status as a legal representative when applying to speak at the public forum.~~ Deleted: 5
- 4.7. ~~◆ The general manager or their delegate may refuse an application to speak at a public forum. The general manager or their delegate must give reasons in writing for a decision to refuse an application. ♣ Where possible, details of speakers authorised to speak during the public forum are to be included in the Agenda.~~ Deleted: 6
Formatted: Indent: Left: 0 cm, Hanging: 1.27 cm
Formatted: Font: Not Bold
Formatted: Font: Not Italic
- 4.8. ~~◆ No more than two speakers are to be permitted to speak 'for' or 'against' each item of business on the agenda for the council meeting.~~ Commented [LE4]: Nominated a number as a starting point. If public forum goes for 15 minutes in total, then only three speakers can address council
- 4.9. ~~◆ If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to address the council on the item of business. If the speakers are not able to agree on whom to nominate to address the council, the general manager or their delegate is to determine who will address the council at the public forum.~~ Deleted: 7
Deleted: Omitted.
Deleted: 8
- 4.10. ~~◆ If more than the permitted number of speakers apply to speak 'for' or 'against' any item of business, the general manager or their delegate may, in consultation with the chairperson, increase the number of speakers permitted to speak on an item of business, where they are satisfied that it is necessary to do so to allow the council to hear a fuller range of views on the relevant item of business.~~ Deleted: Omitted
- 4.11. ~~◆ Approved speakers at the public forum are to register with the council any written, visual or audio material to be presented in support of their address to the council at the public forum, and to identify any equipment needs, no later than two days before the public forum. The general manager or their delegate may refuse to allow such material to be presented.~~ Deleted: Omitted.
Deleted: 0
- 4.12. ~~♣ The general manager or their delegate is to determine the order of speakers at the public forum and, where appropriate, will adopt the custom of alternating an objector to a matter with a supporter to the same matter.~~ Commented [LE5]: Nominated a timeframe as a starting point
Formatted: Font: Not Bold
Deleted: Omitted.
Deleted: 1
Deleted: ,
Deleted: with consideration to the custom that speakers are heard alternately, for example,
Deleted: followed by
- 4.13. ~~♣ Each speaker will be allowed five minutes to address the council. This time is to be strictly enforced by the chairperson. At their discretion, the chairperson may, in consultation with the General Manager, increase a speaker's time limit.~~ Deleted: 2
Deleted: T
Deleted: general manager
Deleted: ,
Deleted: at their discretion,
Formatted: Not Highlight
Deleted: 3
- 4.14. ~~◆ Speakers at public forums must not digress from the item on the agenda of the council meeting they have applied to address the council on. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.~~ Deleted: 4
- 4.15. ~~◆ A councillor (including the chairperson) may, through the chairperson, ask questions of a speaker following their address at a public forum. Questions put to a speaker must be direct, succinct and without argument. ♣ A councillor is not permitted to lecture or convey statements, rather than questions, to a speaker.~~ Formatted: Not Highlight
Deleted: .
- 4.16. ~~◆ Speakers are under no obligation to answer a question put under clause 4.15.~~ Deleted: 5
Deleted: 4

Answers by the speaker, to each question, are to be limited to five minutes.

- 4.17. ~~◆ Speakers at public forums cannot ask questions of the council, councillors or council staff.~~ Deleted: 6
 - 4.18. ~~◆ The general manager or their nominee may, with the concurrence of the chairperson, address the council for up to five minutes in response to an address to the council at a public forum after the address and any subsequent questions and answers have been finalised.~~ Deleted: 7
 - 4.19. ~~◆ Where an address made at a public forum raises matters that require further consideration by council staff, the general manager may recommend that the council defer consideration of the matter pending the preparation of a further report on the matters.~~ Deleted: 8
 - 4.20. ~~◆ When addressing the council, speakers at public forums must comply with this code and all other relevant council codes, policies and procedures. Speakers must refrain from engaging in disorderly conduct, publicly alleging breaches of the council's code of conduct or making other potentially defamatory statements.~~ Deleted: 19
 - 4.21. ~~◆ If the chairperson considers that a speaker at a public forum has engaged in conduct of the type referred to in clause 4.20, the chairperson may request the person to refrain from the inappropriate behaviour and to withdraw and unreservedly apologise for any inappropriate comments. Where the speaker fails to comply with the chairperson's request, the chairperson may immediately require the person to stop speaking.~~ Deleted: 0
Deleted: 19
 - 4.22. ~~◆ Clause 4.21 does not limit the ability of the chairperson to deal with disorderly conduct by speakers at public forums in accordance with the provisions of Part 15 of this code.~~ Deleted: 1
Deleted: 0
 - 4.23. ~~◆ Where a speaker engages in conduct of the type referred to in clause 4.20, the general manager or their delegate may refuse further applications from that person to speak at public forums for such a period as the general manager or their delegate considers appropriate.~~ Deleted: 2
Deleted: 19
 - 4.24. ~~Councillors (including the chairperson) must declare and manage any conflicts of interest they may have in relation to any item of business that is the subject of an address at a public forum, in the same way that they are required to do so at a council or committee meeting. The council is to maintain a written record of all conflict of interest declarations made at public forums and how the conflict of interest was managed by the councillor who made the declaration.~~ Deleted: 3
- Note: Public forums should not be held as part of a council or committee meeting. Council or committee meetings should be reserved for decision-making by the council or committee of council. Where a public forum is held as part of a council or committee meeting, it must be conducted in accordance with the other requirements of this code relating to the conduct of council and committee meetings.** Deleted: Omitted.¶

5 Coming together

Attendance by councillors at meetings

- 5.1 All councillors must make reasonable efforts to attend meetings of the council and of committees of the council of which they are members.

Note: A councillor may not attend a meeting as a councillor (other than the first meeting of the council after the councillor is elected or a meeting at which the councillor takes an oath or makes an affirmation of office) until they have taken an oath or made an affirmation of office in the form prescribed under section 233A of the Act.

5.2 A councillor cannot participate in a meeting of the council or of a committee of the council unless personally present at the meeting, unless permitted to attend the meeting by audio-visual link under this code.

Deleted: .

5.3 Omitted.

5.4 Where a councillor is unable to attend one or more ordinary meetings of the council, the councillor should request that the council grant them a leave of absence from those meetings. This clause does not prevent a councillor from making an apology if they are unable to attend a meeting. However, the acceptance of such an apology does not constitute the granting of a leave of absence for the purposes of this code and the Act.

5.5 A councillor's request for leave of absence from council meetings should, if practicable, identify (by date) the meetings from which the councillor intends to be absent and the grounds upon which the leave of absence is being sought.

5.6 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.

5.7 A councillor's civic office will become vacant if the councillor is absent from three (3) consecutive ordinary meetings of the council without prior leave of the council, or leave granted by the council at any of the meetings concerned, unless the holder is absent because they have been suspended from office under the Act, or because the council has been suspended under the Act, or as a consequence of a compliance order under section 438HA.

Note: Clause 5.7 reflects section 234(1)(d) of the Act.

5.8 A councillor who intends to attend a meeting of the council despite having been granted a leave of absence should, if practicable, give the general manager at least two (2) days' notice of their intention to attend.

Deleted: ¶
¶
♣ Once a leave of absence has been granted by Council and communicated to the applicant, the leave of absence is not capable of being rescinded by Council.

The quorum for a meeting

5.9 The quorum for a meeting of the council is a majority of the councillors of the council who hold office at that time and are not suspended from office.

Note: Clause 5.9 reflects section 368(1) of the Act.

5.10 Clause 5.9 does not apply if the quorum is required to be determined in accordance with directions of the Minister in a performance improvement order issued in respect of the council.

Note: Clause 5.10 reflects section 368(2) of the Act.

5.11 A meeting of the council must be adjourned if a quorum is not present:

- (a) at the commencement of the meeting where the number of apologies received for the meeting indicates that there will not be a quorum for the meeting, or
- (b) within half an hour after the time designated for the holding of the meeting, or
- (c) at any time during the meeting.

5.12 In either case, the meeting must be adjourned to a time, date, and place fixed:

- (a) by the chairperson, or
- (b) in the chairperson's absence, by the majority of the councillors present, or
- (c) failing that, by the general manager.

5.13 The general manager must record in the council's minutes the circumstances relating to the absence of a quorum (including the reasons for the absence of a quorum) at or arising during a meeting of the council, together with the names of the councillors present.

5.14 ♦ Where, prior to the commencement of a meeting, it becomes apparent that a quorum may not be present at the meeting, or that the health, safety or welfare of councillors, council staff and members of the public may be put at risk by attending the meeting because of a natural disaster (such as, but not limited to flood or bushfire) or a public health emergency, the chairperson may, in consultation with the general manager and, as far as is practicable, with each councillor, cancel the meeting. Where a meeting is cancelled, notice of the cancellation must be published on the council's website and in such other manner that the council is satisfied is likely to bring notice of the cancellation to the attention of as many people as possible.

5.15 ♦ Where a meeting is cancelled under clause 5.14, the business to be considered at the meeting may instead be considered, where practicable, at the next ordinary meeting of the council or at an extraordinary meeting called under clause 3.3.

Meetings held by audio-visual link

5.16 A meeting of the council or a committee of the council may be held by audio-visual link where the chairperson determines that the meeting should be held by audio-visual link because of a natural disaster or a public health emergency. The chairperson may only make a determination under this clause where they are satisfied that attendance at the meeting may put the health and safety of councillors and staff at risk. The chairperson must make a determination under this clause in consultation with the general manager and, as far as is practicable, with each councillor.

5.17 Where the chairperson determines under clause 5.16 that a meeting is to be held by audio-visual link, the general manager must:

- (a) give written notice to all councillors that the meeting is to be held by audio-visual link, and
- (b) take all reasonable steps to ensure that all councillors can participate in the meeting by audio-visual link, and
- (c) cause a notice to be published on the council's website and in such other manner the general manager is satisfied will bring it to the attention of as many people as possible, advising that the meeting is to be held by audio-visual link and providing information about where members of the public may view the meeting.

5.18 This code applies to a meeting held by audio-visual link under clause 5.16 in the same way it would if the meeting was held in person.

Note: Where a council holds a meeting by audio-visual link under clause 5.16, it is still required under section 10 of the Act to provide a physical venue for members of the public to attend in person and observe the meeting.

Deleted: ¶
¶

Deleted: and

Deleted: mayor

Attendance by councillors at meetings by audio-visual link

- 5.19 Councillors may attend and participate in meetings of the council and committees of the council by audio-visual link with the approval of the council or the relevant committee.
- 5.20 A request by a councillor for approval to attend a meeting by audio-visual link must be made in writing to the general manager prior to the meeting in question and must provide reasons why the councillor will be prevented from attending the meeting in person.
- 5.21 Councillors may request approval to attend more than one meeting by audio-visual link. Where a councillor requests approval to attend more than one meeting by audio-visual link, the request must specify the meetings the request relates to in addition to the information required under clause 5.20.
- 5.22 The council must comply with the Health Privacy Principles prescribed under the *Health Records and Information Privacy Act 2002* when collecting, holding, using and disclosing health information in connection with a request by a councillor to attend a meeting by audio-visual link.
- 5.23 A councillor who has requested approval to attend a meeting of the council or a committee of the council by audio-visual link may participate in the meeting by audio-visual link until the council or committee determines whether to approve their request and is to be taken as present at the meeting. The councillor may participate in a decision in relation to their request to attend the meeting by audio-visual link.
- 5.24 A decision whether to approve a request by a councillor to attend a meeting of the council or a committee of the council by audio-visual link must be made by a resolution of the council or the committee concerned. The resolution must state:
- (a) the meetings the resolution applies to, and
 - (b) the reason why the councillor is being permitted to attend the meetings by audio-visual link where it is on grounds other than illness, disability, or caring responsibilities.
- 5.25 If the council or committee refuses a councillor's request to attend a meeting by audio-visual link, their link to the meeting is to be terminated.
- 5.26 A decision whether to approve a councillor's request to attend a meeting by audio-visual link is at the council's or the relevant committee's discretion. The council and committees of the council must act reasonably when considering requests by councillors to attend meetings by audio-visual link. However, the council and committees of the council are under no obligation to approve a councillor's request to attend a meeting by audio-visual link where the technical capacity does not exist to allow the councillor to attend the meeting by these means.
- 5.27 The council and committees of the council may refuse a councillor's request to attend a meeting by audio-visual link where the council or committee is satisfied that the councillor has failed to appropriately declare and manage conflicts of interest, observe confidentiality or to comply with this code on one or more previous occasions they have attended a meeting of the council or a committee of the council by audio-visual link.
- 5.28 This code applies to a councillor attending a meeting by audio-visual link in the same way it would if the councillor was attending the meeting in person. Where a councillor is permitted to attend a meeting by audio-visual link under this code, they are to be taken as attending the meeting in person for the purposes of the code and will have the same voting rights as if they were attending the meeting in person.

5.29 A councillor must give their full attention to the business and proceedings of the meeting when attending a meeting by audio-visual link. The councillor's camera must be on at all times during the meeting except as may be otherwise provided for under this code.

5.30 A councillor must be appropriately dressed when attending a meeting by audio-visual link and must ensure that no items are within sight of the meeting that are inconsistent with the maintenance of order at the meeting or that are likely to bring the council or the committee into disrepute.

Entitlement of the public to attend council meetings

5.31 Everyone is entitled to attend a meeting of the council and committees of the council. The council must ensure that all meetings of the council and committees of the council are open to the public.

Note: Clause 5.31 reflects section 10(1) of the Act.

5.32 Clause 5.31 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.

5.33 A person (whether a councillor or another person) is not entitled to be present at a meeting of the council or a committee of the council if expelled from the meeting:

- (a) by a resolution of the meeting, or
- (b) by the person presiding at the meeting if the council has, by resolution, authorised the person presiding to exercise the power of expulsion.

Note: Clause 5.33 reflects section 10(2) of the Act.

Note: If adopted, clauses 15.14 and 15.15 confer a standing authorisation on all chairpersons of meetings of the council and committees of the council to expel persons from meetings. If adopted, clause 15.14 authorises chairpersons to expel any person, including a councillor, from a council or committee meeting. Alternatively, if adopted, clause 15.15 authorises chairpersons to expel persons other than councillors from a council or committee meeting.

Webcasting of meetings

5.34 Each meeting of the council or a committee of the council is to be recorded by means of an audio or audio-visual device.

5.35 At the start of each meeting of the council or a committee of the council, the chairperson must inform the persons attending the meeting that:

- (a) the meeting is being recorded and made publicly available on the council's website, and
- (b) persons attending the meeting should refrain from making any defamatory statements.

5.36 The recording of a meeting is to be made publicly available on the council's website:

- (a) at the same time as the meeting is taking place, or
- (b) as soon as practicable after the meeting.

Deleted: 16

Deleted: 16

Deleted: 17

Deleted: 16

Deleted: 18

Deleted: 18

Deleted: 19

Deleted: All meetings of the council and committees of the council are to be webcast on the council's website

Deleted: ¶
 ▲ Webcasting will occur via one of the following methods (in order of availability): ¶
 audio recording, and placed on Council's website subsequent to the Council meeting; ¶
 audio-visual recording, and placed on Council's website subsequent to the Council meeting; or ¶
 live webcasting (if viable). ¶

Note: Councils will be required to webcast meetings from 14 December 2019. Councils that do not currently webcast meetings should take steps to ensure that meetings are webcast by 14 December 2019. ¶

¶
Note: Councils must include supplementary provisions in their adopted codes of meeting practice that specify whether meetings are to be livestreamed or recordings of meetings uploaded on the council's website at a later time. The supplementary provisions must also specify whether the webcast is to comprise of an audio visual recording of the meeting or an audio recording of the meeting. ¶

Deleted: 20

Deleted: Clause 5.19 does not apply to parts of a meeting that have been closed to the public under section 10A of the Act.

Note: Council currently provides meeting recordings in accordance with clause 5.36(b).

5.37 The recording of a meeting is to be made publicly available on the council's website for at least 12 months after the meeting.

5.38 Clauses 5.36 and 5.37 do not apply to any part of a meeting that has been closed to the public in accordance with section 10A of the Act.

Note: Clauses 5.34 – 5.38 reflect section 236 of the Regulation.

5.39 Recordings of meetings may be disposed of in accordance with the State Records Act 1998.

Attendance of the general manager and other staff at meetings

5.40 The general manager is entitled to attend, but not to vote at, a meeting of the council or a meeting of a committee of the council of which all of the members are councillors.

Note: Clause 5.40 reflects section 376(1) of the Act.

5.41 The general manager is entitled to attend a meeting of any other committee of the council and may, if a member of the committee, exercise a vote.

Note: Clause 5.41 reflects section 376(2) of the Act.

5.42 The general manager may be excluded from a meeting of the council or a committee while the council or committee deals with a matter relating to the standard of performance of the general manager or the terms of employment of the general manager.

Note: Clause 5.42 reflects section 376(3) of the Act.

5.43 The attendance of other council staff at a meeting, (other than as members of the public) shall be with the approval of the general manager.

5.44 The general manager and other council staff may attend meetings of the council and committees of the council by audio-visual-link. Attendance by council staff at meetings by audio-visual link (other than as members of the public) shall be with the approval of the general manager.

Deleted: 5.21 At the start of each meeting the chairperson is to make a statement informing those in attendance that the meeting is being webcast and that those in attendance should refrain from making any defamatory statements.[¶]
[¶] 5.22 A recording of each meeting of the council and committee of the council is to be retained on the council's website for a maximum of 12 months. Recordings of meetings may be disposed of in accordance with the State Records Act 1998.[¶]

Deleted: 23

Deleted: 23

Deleted: 24

Deleted: 24

Deleted: 25

Deleted: 25

Deleted: 26

Deleted: ¶

6 The chairperson

The chairperson at meetings

6.1 The chairperson, or at the request of or in the absence of the chairperson, the deputy chairperson (if any) presides at meetings of the council.

♣ The chairperson of a county council is elected in accordance with section 391 of the Act, to undertake functions in accordance with section 391A of the Act. As a matter of administrative convenience, Council may elect a deputy chairperson. The election of the deputy chairperson will be conducted at the same time and in the same manner as the election of the chairperson.

Note: Clause 6.1 reflects section 369(1) of the Act.

Deleted: annual

- 6.2 If the chairperson and the deputy chairperson (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

Note: Clause 6.2 reflects section 369(2) of the Act.

Election of the chairperson in the absence of the chairperson and deputy chairperson

- 6.3 If no chairperson is present at a meeting of the council at the time designated for the holding of the meeting, the first business of the meeting must be the election of a chairperson to preside at that meeting.
- 6.4 The election of a chairperson must be conducted:
- (a) by the general manager or, in their absence, an employee of the council designated by the general manager to conduct the election, or
 - (b) by the person who called the meeting or a person acting on their behalf if neither the general manager nor a designated employee is present at the meeting, or if there is no general manager or designated employee.
- 6.5 If, at an election of a chairperson, two (2) or more candidates receive the same number of votes and no other candidate receives a greater number of votes, the chairperson is to be the candidate whose name is chosen by lot.
- 6.6 For the purposes of clause 6.5, the person conducting the election must:
- (a) arrange for the names of the candidates who have equal numbers of votes to be written on similar slips, and
 - (b) then fold the slips so as to prevent the names from being seen, mix the slips and draw one of the slips at random.
- 6.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.
- 6.8 Any election conducted under clause 6.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

Chairperson to have precedence

- 6.9 When the chairperson rises or speaks during a meeting of the council:
- (a) any councillor then speaking or seeking to speak must cease speaking and, if standing, immediately resume their seat, and
 - (b) every councillor present must be silent to enable the chairperson to be heard without interruption.

7 Modes of address

- 7.1 ♣ The chairperson is to be addressed as 'Chair', 'Mr/Madam Chair' or 'Mr/Madam Chairperson'.
- 7.2 Omitted.
- 7.3 ◆ A councillor is to be addressed as 'Councillor [surname]'.
Deleted: [redacted]
- 7.4 ◆ A council officer is to be addressed by their official designation or as Mr/Ms [surname].

8 Order of business for ordinary council meetings

- 8.1 Omitted – superseded by 8.2.
- 8.2 ♣The general order of business for an ordinary meeting of the council shall be:
 - 01 Opening meeting*
 - 02 Acknowledgement of Country*
 - 03 Apologies and applications for a leave of absence or attendance by audio-visual link by councillors*
 - 04 Confirmation of minutes of previous meeting*
 - 05 Disclosure of interest*
 - 06 Chair’s minute(s)
 - 07 Matters of urgency
 - 08 Notices of motions/Questions with notice*
 - 09 Reports of committees
 - 10 Reports to council (General Manager and Group Managers, as applicable)
 - 11 Policies
 - 12 Information reports
 - 13 Confidential matters
 - 14 Close of business*

♣ The items marked with an asterisk (*) are routinely included in the council meeting agenda. Remaining items are included as appropriate based on the council business proposed for discussion at the meeting.

Note: Councils must use either clause 8.1 or 8.2.

- 8.3 The order of business as fixed under clause 8.2 may be altered for a particular meeting of the council if a motion to that effect is passed at that meeting. Such a motion can be moved without notice.

Note: If adopted, Part 13 allows council to deal with items of business by exception.

- 8.4 Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 8.3 may speak to the motion before it is put.

9 Consideration of business at council meetings

Business that can be dealt with at a council meeting

- 9.1 The council must not consider business at a meeting of the council:
 - (a) unless a councillor has given notice of the business, as required by clause 3.10, and
 - (b) unless notice of the business has been sent to the councillors in accordance with clause 3.7 in the case of an ordinary meeting or clause 3.9 in the case of an extraordinary meeting called in an emergency.
- 9.2 Clause 9.1 does not apply to the consideration of business at a meeting, if the business:

Deleted: L
Deleted: A
Deleted: 12
Deleted: *¶
Deleted:
Deleted: 7
Deleted: 0
Deleted: 8
Deleted: 09
Deleted: 0
Deleted: 1
Deleted: ¶ 12 Matters of urgency*¶ 13 Notices of motions/Questions on notice*

- (a) is already before, or directly relates to, a matter that is already before the council, or
- (b) is the election of a chairperson to preside at the meeting, or
- (c) subject to clause 9.9, is a matter or topic put to the meeting by way of a chairperson's minute, or
- (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.

9.3 Despite clause 9.1, business may be considered at a meeting of the council even though due notice of the business has not been given to the councillors if:

- (a) a motion is passed to have the business considered at the meeting, and
- (b) the business to be considered is ruled by the chairperson to be of great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

9.4 A motion moved under clause 9.3(a) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 9.3(a) can speak to the motion before it is put.

9.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 9.3(b).

Chairperson's minutes

9.6 Subject to clause 9.9, the chairperson at a meeting of the council, may, by minute signed by the chairperson, put to the meeting without notice any matter or topic that is within the jurisdiction of the council, or of which the council has official knowledge.

9.7 A chairperson's minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson may move the adoption of a chairperson's minute without the motion being seconded.

9.8 A recommendation made in a chairperson's minute put by the chairperson is, so far as it is adopted by the council, a resolution of the council.

9.9 A chairperson's minute must not be used to put without notice matters that are routine and not urgent, or matters for which proper notice should be given because of their complexity. For the purpose of this clause, a matter will be urgent where it requires a decision by the council before the next scheduled ordinary meeting of the council.

9.10 ~~◆ Where a chairperson's minute makes a recommendation which, if adopted, would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan, it must identify the source of funding for the expenditure that is the subject of the recommendation. If the mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the recommendation if adopted.~~

Deleted: ,

Deleted: Omitted. ¶

Staff reports

9.11 A recommendation made in a staff report is, so far as it is adopted by the council, a resolution of the council.

Reports of committees of council

- 9.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.
- 9.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

Questions

- 9.14 A question must not be asked at a meeting of the council unless it concerns a matter on the agenda of the meeting or notice has been given of the question in accordance with clauses 3.10 and 3.14.
- 9.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.
- 9.16 A councillor may, through the general manager, put a question to a council employee about a matter on the agenda. Council employees are only obliged to answer a question put to them through the general manager at the direction of the general manager.
- 9.17 A councillor or council employee to whom a question is put is entitled to be given reasonable notice of the question and, in particular, sufficient notice to enable reference to be made to other persons or to documents. Where a councillor or council employee to whom a question is put is unable to respond to the question at the meeting at which it is put, they may take it on notice and report the response to the next meeting of the council.
- 9.18 Councillors must put questions directly, succinctly, respectfully and without argument.
- 9.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

10 Rules of debate

Motions to be seconded

- 10.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

Notices of motion

- 10.2 A councillor who has submitted a notice of motion under clause 3.10 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.
- 10.3 If a councillor who has submitted a notice of motion under clause 3.10 wishes to withdraw it after the agenda and business paper for the meeting at which it is to be considered have been sent to councillors, the councillor may request the withdrawal of the motion when it is before the council.
- 10.4 In the absence of a councillor who has placed a notice of motion on the agenda for a meeting of the council:

- (a) any other councillor may, with the leave of the chairperson, move the motion at the meeting, or
- (b) the chairperson may defer consideration of the motion until the next meeting of the council.

Chairperson's duties with respect to motions

- 10.5 It is the duty of the chairperson at a meeting of the council to receive and put to the meeting any lawful motion that is brought before the meeting.
- 10.6 The chairperson must rule out of order any motion or amendment to a motion that is unlawful or the implementation of which would be unlawful.

10.6A ♣ The chairperson may rule that a motion or an amendment is out of order if, in the view of the chairperson, the proposed motion:

- (a) is vague and equivocal in its language;
- (b) is the direct negative of or is inconsistent with a resolution just passed by the meeting;
- (e) is outside the scope of the meeting;
- (f) in the opinion of the chairperson, contains potentially defamatory statements;
- (g) is unnecessary in that it proposes a course of action or policy already resolved upon by the meeting; or
- (h) is potentially vexatious and proposed to impede the orderly transaction of business.

10.6B ♣ The General Manager may provide factual information on a notice of motion to assist in the discussion of the motion. The General Manager must not comment on the merit of a notice of motion.

Where a motion put before Council is not exactly as presented on the Agenda, the motion must be in writing and provided to the chairperson before the mover may proceed.

10.6C ♣ The chairperson must not accept a motion 'that the motion be now put' if a Councillor is speaking to the motion in accordance with this Code of Meeting Practice or while a question, properly asked by a Councillor, awaits response in accordance with a direction of the chairperson.

10.7 Before ruling out of order a motion or an amendment to a motion under clause 10.6 or 10.6A, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.

Deleted: ¶

10.8 Any motion, amendment, or other matter that the chairperson has ruled out of order is taken to have been lost.

Motions requiring the expenditure of funds

10.9 ◆ A motion or an amendment to a motion which if passed would require the expenditure of funds on works and/or services other than those already provided for in the council's current adopted operational plan must identify the source of funding for the expenditure that is the subject of the motion. If the motion does not identify a funding source, the council must defer consideration of the matter, pending a report from the general manager on the availability of funds for implementing the motion if adopted.

Deleted: Omitted. ¶

Amendments to motions

- 10.10 An amendment to a motion must be moved and seconded before it can be debated.
- 10.11 An amendment to a motion must relate to the matter being dealt with in the original motion before the council and must not be a direct negative of the original motion. An amendment to a motion which does not relate to the matter being dealt with in the original motion, or which is a direct negative of the original motion, must be ruled out of order by the chairperson.
- 10.12 The mover of an amendment is to be given the opportunity to explain any uncertainties in the proposed amendment before a seconder is called for.
- 10.13 If an amendment has been lost, a further amendment can be moved to the motion to which the lost amendment was moved, and so on, but no more than one (1) motion and one (1) proposed amendment can be before council at any one time.
- 10.14 While an amendment is being considered, debate must only occur in relation to the amendment and not the original motion. Debate on the original motion is to be suspended while the amendment to the original motion is being debated.
- 10.15 If the amendment is carried, it becomes the motion and is to be debated. If the amendment is lost, debate is to resume on the original motion.
- 10.16 An amendment may become the motion without debate or a vote where it is accepted by the councillor who moved the original motion.

Foreshadowed motions

- 10.17 A councillor may propose a foreshadowed motion in relation to the matter the subject of the original motion before the council, without a seconder during debate on the original motion. The foreshadowed motion is only to be considered if the original motion is lost or withdrawn and the foreshadowed motion is then moved and seconded. If the original motion is carried, the foreshadowed motion lapses.
- 10.18 Where an amendment has been moved and seconded, a councillor may, without a seconder, foreshadow a further amendment that they propose to move after the first amendment has been dealt with. There is no limit to the number of foreshadowed amendments that may be put before the council at any time. However, no discussion can take place on foreshadowed amendments until the previous amendment has been dealt with and the foreshadowed amendment has been moved and seconded.
- 10.19 Foreshadowed motions and foreshadowed amendments are to be considered in the order in which they are proposed. However, foreshadowed motions cannot be considered until all foreshadowed amendments have been dealt with.

Limitations on the number and duration of speeches

- 10.20 A councillor who, during a debate at a meeting of the council, moves an original motion, has the right to speak on each amendment to the motion and a right of general reply to all observations that are made during the debate in relation to the motion, and any amendment to it at the conclusion of the debate before the motion (whether amended or not) is finally put.

- 10.21 A councillor, other than the mover of an original motion, has the right to speak once on the motion and once on each amendment to it.
- 10.22 A councillor must not, without the consent of the council, speak more than once on a motion or an amendment, or for longer than five (5) minutes at any one time.
- 10.23 Despite clause 10.22, the chairperson may permit a councillor who claims to have been misrepresented or misunderstood to speak more than once on a motion or an amendment, and for longer than five (5) minutes on that motion or amendment to enable the councillor to make a statement limited to explaining the misrepresentation or misunderstanding.
- 10.24 Despite clause 10.22, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.
- 10.25 Despite clauses 10.20 and 10.21, a councillor may move that a motion or an amendment be now put:
- (a) if the mover of the motion or amendment has spoken in favour of it and no councillor expresses an intention to speak against it, or
 - (b) if at least two (2) councillors have spoken in favour of the motion or amendment and at least two (2) councillors have spoken against it.
- 10.26 The chairperson must immediately put to the vote, without debate, a motion moved under clause 10.25. A seconder is not required for such a motion.
- 10.27 If a motion that the original motion or an amendment be now put is passed, the chairperson must, without further debate, put the original motion or amendment to the vote immediately after the mover of the original motion has exercised their right of reply under clause 10.20.
- 10.28 If a motion that the original motion or an amendment be now put is lost, the chairperson must allow the debate on the original motion or the amendment to be resumed.
- 10.29 All councillors must be heard without interruption and all other councillors must, unless otherwise permitted under this code, remain silent while another councillor is speaking.
- 10.30 Once the debate on a matter has concluded and a matter has been dealt with, the chairperson must not allow further debate on the matter.
- 10.31 Omitted.

11 Voting

Voting entitlements of councillors

- 11.1 Each councillor is entitled to one (1) vote.
- Note: Clause 11.1 reflects section 370(1) of the Act.**
- 11.2 The person presiding at a meeting of the council has, in the event of an equality of votes, a second or casting vote.
- Note: Clause 11.2 reflects section 370(2) of the Act.**

11.3 Where the chairperson declines to exercise, or fails to exercise, their second or casting vote, in the event of an equality of votes, the motion being voted upon is lost.

11.4 Omitted.

Voting at council meetings

11.5 A councillor who is present at a meeting of the council but who fails to vote on a motion put to the meeting is taken to have voted against the motion.

11.6 If a councillor who has voted against a motion put at a council meeting so requests, the general manager must ensure that the councillor's dissenting vote is recorded in the council's minutes.

Deleted: Omitted – superseded by clause 11.11. ¶

11.7 The decision of the chairperson as to the result of a vote is final unless the decision is immediately challenged and not fewer than two (2) councillors rise and call for a division.

Deleted: ,

11.8 When a division on a motion is called, the chairperson must ensure that the division takes place immediately. The general manager must ensure that the names of those who vote for the motion and those who vote against it are recorded in the council's minutes for the meeting.

11.9 When a division on a motion is called, any councillor who fails to vote will be recorded as having voted against the motion in accordance with clause 11.5 of this code.

11.10 Voting at a meeting, including voting in an election at a meeting, is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system). However, the council may resolve that the voting in any election by councillors for chairperson, or deputy chairperson is to be by secret ballot.

Deleted: mayor

Deleted: mayor

11.11 Omitted.

Deleted: ♦ All voting at council meetings, (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.

Note: If clause 11.11 is adopted, clauses 11.6 – 11.9 and clause 11.13 may be omitted.

Voting on planning decisions

Deleted: ♦ Note: only clause 11.6 is omitted. ¶

11.12 The general manager must keep a register containing, for each planning decision made at a meeting of the council or a council committee (including, but not limited to a committee of the council), the names of the councillors who supported the decision and the names of any councillors who opposed (or are taken to have opposed) the decision.

11.13 For the purpose of maintaining the register, a division is taken to have been called whenever a motion for a planning decision is put at a meeting of the council or a council committee.

11.14 Each decision recorded in the register is to be described in the register or identified in a manner that enables the description to be obtained from another publicly available document.

11.15 Clauses 11.12–11.14 apply also to meetings that are closed to the public.

Note: Clauses 11.12–11.15 reflect section 375A of the Act.

Note: The requirements of clause 11.12 may be satisfied by maintaining a register of the minutes of each planning decision.

12 Committee of the whole

12.1 The council may resolve itself into a committee to consider any matter before the council.

Note: Clause 12.1 reflects section 373 of the Act.

12.2 All the provisions of this code relating to meetings of the council, so far as they are applicable, extend to and govern the proceedings of the council when in committee of the whole, except the provisions limiting the number and duration of speeches.

Note: Clauses 10.20–10.30 limit the number and duration of speeches.

12.3 The general manager or, in the absence of the general manager, an employee of the council designated by the general manager, is responsible for reporting to the council the proceedings of the committee of the whole. It is not necessary to report the proceedings in full, but any recommendations of the committee must be reported.

12.4 The council must ensure that a report of the proceedings (including any recommendations of the committee) is recorded in the council's minutes. However, the council is not taken to have adopted the report until a motion for adoption has been made and passed.

13 Dealing with items by exception

13.1 ~~◆ The council or a committee of council may, at any time, resolve to adopt multiple items of business on the agenda together by way of a single resolution. ◆ Only items included under the "Information Reports" agenda item may be considered in this manner.~~

Deleted: ◆

13.2 ◆ Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 13.1, the chairperson must list the items of business to be adopted and ask councillors to identify any individual items of business listed by the chairperson that they intend to vote against the recommendation made in the business paper or that they wish to speak on.

Deleted: ¶
¶

Deleted: ¶

13.3 ◆ The council or committee must not resolve to adopt any item of business under clause 13.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.

13.4 ◆ Where the consideration of multiple items of business together under clause 13.1 involves a variation to the order of business for the meeting, the council or committee must resolve to alter the order of business in accordance with clause 8.3.

13.5 ◆ A motion to adopt multiple items of business together under clause 13.1 must identify each of the items of business to be adopted and state that they are to be adopted as recommended in the business paper.

13.6 ◆ Items of business adopted under clause 13.1 are to be taken to have been adopted unanimously.

- 13.7 **◆ Councillors must ensure that they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 13.1 in accordance with the requirements of the council's code of conduct.**

Deleted: Omitted.

14 Closure of council meetings to the public

Grounds on which meetings can be closed to the public

- 14.1 The council or a committee of the council may close to the public so much of its meeting as comprises the discussion or the receipt of any of the following types of matters:
- (a) personnel matters concerning particular individuals (other than councillors),
 - (b) the personal hardship of any resident or ratepayer,
 - (c) information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business,
 - (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret,
 - (e) information that would, if disclosed, prejudice the maintenance of law,
 - (f) matters affecting the security of the council, councillors, council staff or council property,
 - (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege,
 - (h) information concerning the nature and location of a place or an item of Aboriginal significance on community land,
 - (i) alleged contraventions of the council's code of conduct.

Note: Clause 14.1 reflects section 10A(1) and (2) of the Act.

♣ If the Agenda lists more than one matter for discussion in a part of a meeting proposed to be closed to the public, Council must consider each proposed closure of the meeting on its individual merits. For example, Council may consider one recommendation that lists the individual reason(s) for the proposed closure of the meeting, matter by matter.

- 14.2 The council or a committee of the council may also close to the public so much of its meeting as comprises a motion to close another part of the meeting to the public.

Note: Clause 14.2 reflects section 10A(3) of the Act.

Matters to be considered when closing meetings to the public

- 14.3 A meeting is not to remain closed during the discussion of anything referred to in clause 14.1:
- (a) except for so much of the discussion as is necessary to preserve the relevant confidentiality, privilege or security, and
 - (b) if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret – unless the council or committee concerned is satisfied that discussion of the matter in an open meeting would, on balance, be contrary to the public interest.

Note: Clause 14.3 reflects section 10B(1) of the Act.

- 14.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 14.1(g) unless the advice concerns legal matters that:
- (a) are substantial issues relating to a matter in which the council or committee is involved, and
 - (b) are clearly identified in the advice, and
 - (c) are fully discussed in that advice.

Note: Clause 14.4 reflects section 10B(2) of the Act.

- 14.5 If a meeting is closed during the discussion of a motion to close another part of the meeting to the public (as referred to in clause 14.2), the consideration of the motion must not include any consideration of the matter or information to be discussed in that other part of the meeting other than consideration of whether the matter concerned is a matter referred to in clause 14.1.

Note: Clause 14.5 reflects section 10B(3) of the Act.

- 14.6 For the purpose of determining whether the discussion of a matter in an open meeting would be contrary to the public interest, it is irrelevant that:
- (a) a person may misinterpret or misunderstand the discussion, or
 - (b) the discussion of the matter may:
 - (i) cause embarrassment to the council or committee concerned, or to councillors or to employees of the council, or
 - (ii) cause a loss of confidence in the council or committee.

Note: Clause 14.6 reflects section 10B(4) of the Act.

- 14.7 In deciding whether part of a meeting is to be closed to the public, the council or committee concerned must consider any relevant guidelines issued by the [Departmental](#) Chief Executive of the Office of Local Government.

Note: Clause 14.7 reflects section 10B(5) of the Act.

Deleted: ¶

Notice of likelihood of closure not required in urgent cases

- 14.8 Part of a meeting of the council, or of a committee of the council, may be closed to the public while the council or committee considers a matter that has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed, but only if:
- (a) it becomes apparent during the discussion of a particular matter that the matter is a matter referred to in clause 14.1, and
 - (b) the council or committee, after considering any representations made under clause 14.9, resolves that further discussion of the matter:
 - (i) should not be deferred (because of the urgency of the matter), and
 - (ii) should take place in a part of the meeting that is closed to the public.

Note: Clause 14.8 reflects section 10C of the Act.

Representations by members of the public

- 14.9 The council, or a committee of the council, may allow members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

Note: Clause 14.9 reflects section 10A(4) of the Act.

- 14.10 A representation under clause 14.9 is to be made after the motion to close the part of the meeting is moved and seconded.
- 14.11 Where the matter has been identified in the agenda of the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 14.9, members of the public must first make an application to the council in the approved form. Applications must be received by 12.01pm on the day prior to the Council meeting at which the matter is to be considered.
- 14.12 The general manager (or their delegate) may refuse an application made under clause 14.11. The general manager or their delegate must give reasons in writing for a decision to refuse an application.
- 14.13 No more than four speakers are to be permitted to make representations under clause 14.9.
- 14.14 If more than the permitted number of speakers apply to make representations under clause 14.9, the general manager or their delegate may request the speakers to nominate from among themselves the persons who are to make representations to the council. If the speakers are not able to agree on whom to nominate to make representations under clause 14.9, the general manager or their delegate is to determine who will make representations to the council.
- 14.15 The general manager (or their delegate) is to determine the order of speakers.
- 14.16 Where the council or a committee of the council proposes to close a meeting or part of a meeting to the public in circumstances where the matter has not been identified in the agenda for the meeting under clause 3.21 as a matter that is likely to be considered when the meeting is closed to the public, the chairperson is to invite representations from the public under clause 14.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than four speakers to make representations in such order as determined by the chairperson.
- 14.17 Each speaker will be allowed five minutes to make representations, and this time limit is to be strictly enforced by the chairperson. Speakers must confine their representations to whether the meeting should be closed to the public. If a speaker digresses to irrelevant matters, the chairperson is to direct the speaker not to do so. If a speaker fails to observe a direction from the chairperson, the speaker will not be further heard.

Formatted: Not Highlight

Deleted: 10am

Deleted: of

Expulsion of non-councillors from meetings closed to the public

- 14.18 If a meeting or part of a meeting of the council or a committee of the council is closed to the public in accordance with section 10A of the Act and this code, any person who is not a councillor and who fails to leave the meeting when requested, may be expelled from the meeting as provided by section 10(2)(a) or (b) of the Act.
- 14.19 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary restrain that person from re-entering that place for the remainder of the meeting.

Obligations of councillors attending meetings by audio-visual link

14.20 Councillors attending a meeting by audio-visual link must ensure that no other person is within sight or hearing of the meeting at any time that the meeting is closed to the public under section 10A of the Act.

Information to be disclosed in resolutions closing meetings to the public

14.21 The grounds on which part of a meeting is closed must be stated in the decision to close that part of the meeting and must be recorded in the minutes of the meeting. The grounds must specify the following:

Deleted: 0

- (a) the relevant provision of section 10A(2) of the Act,
- (b) the matter that is to be discussed during the closed part of the meeting,
- (c) the reasons why the part of the meeting is being closed, including (if the matter concerned is a matter other than a personnel matter concerning particular individuals, the personal hardship of a resident or ratepayer or a trade secret) an explanation of the way in which discussion of the matter in an open meeting would be, on balance, contrary to the public interest.

Note: Clause 14.21 reflects section 10D of the Act.

Deleted: 0

Resolutions passed at closed meetings to be made public

14.22 If the council passes a resolution during a meeting, or a part of a meeting, that is closed to the public, the chairperson must make the resolution public as soon as practicable after the meeting, or the relevant part of the meeting, has ended, and the resolution must be recorded in the publicly available minutes of the meeting.

Deleted: 1

14.23 Resolutions passed during a meeting, or a part of a meeting, that is closed to the public must be made public by the chairperson under clause 14.22 during a part of the meeting that is webcast.

Deleted: 2

Deleted: 1

Decisions to be made in open meeting

14.23 ♣ The council or all committees of the council, must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended, or at which any proposal concerning those matters is discussed or considered.

Deleted: a council

Deleted: , all the members of which are councillors

♣ **Note: Clause 14.23 reflects section 254 of the Act.**

15 Keeping order at meetings

Points of order

15.1 A councillor may draw the attention of the chairperson to an alleged breach of this code by raising a point of order. A point of order does not require a seconder.

15.2 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.

15.3 A point of order must be taken immediately it is raised. The chairperson must suspend the business before the meeting and permit the councillor raising the point of order to state the provision of this code they believe has been breached. The

chairperson must then rule on the point of order – either by upholding it or by overruling it.

Questions of order

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

Motions of dissent

- 15.8 A councillor can, without notice, move to dissent from a ruling of the chairperson on a point of order or a question of order. If that happens, the chairperson must suspend the business before the meeting until a decision is made on the motion of dissent.
- 15.9 If a motion of dissent is passed, the chairperson must proceed with the suspended business as though the ruling dissented from had not been given. If, as a result of the ruling, any motion or business has been rejected as out of order, the chairperson must restore the motion or business to the agenda and proceed with it in due course.
- 15.10 Despite any other provision of this code, only the mover of a motion of dissent and the chairperson can speak to the motion before it is put. The mover of the motion does not have a right of general reply.

Acts of disorder

15.11 A councillor commits an act of disorder if the councillor, at a meeting of the council or a committee of the council:

- (a) contravenes the Act, ~~the Regulation~~ or this code, or
- (b) assaults or threatens to assault another councillor or person present at the meeting, or
- (c) moves or attempts to move a motion or an amendment that has an unlawful purpose or that deals with a matter that is outside the jurisdiction of the council or the committee, or addresses or attempts to address the council or the committee on such a motion, amendment or matter, or
- (d) insults, ~~makes unfavourable personal remarks about, or~~ imputes improper motives to any other council official, or alleges a breach of the council's code of conduct, or
- (e) says or does anything that is inconsistent with maintaining order at the meeting or is likely to bring the council or the committee into disrepute.

Deleted: or

Deleted: any regulation in force under the Act

Deleted: ¶

Deleted: or

Deleted: flections on or

Note: Clause 15.11 reflects section 182 of the Regulation.

15.12 The chairperson may require a councillor:

- (a) to apologise without reservation for an act of disorder referred to in clauses 15.11(a), (b) or (e), or
- (b) to withdraw a motion or an amendment referred to in clause 15.11(c) and, where appropriate, to apologise without reservation, or
- (c) to retract and apologise without reservation for any statement that constitutes an act of disorder referred to in clauses 15.11(d) and (e).

Deleted: or

Note: Clause 15.12 reflects section 233 of the Regulation.

How disorder at a meeting may be dealt with

- 15.13 If disorder occurs at a meeting of the council, the chairperson may adjourn the meeting for a period of not more than fifteen (15) minutes and leave the chair. The council, on reassembling, must, on a question put from the chairperson, decide without debate whether the business is to be proceeded with or not. This clause applies to disorder arising from the conduct of members of the public as well as disorder arising from the conduct of councillors.

Expulsion from meetings

- 15.14 Omitted – superseded by clause 15.15.
- 15.15 ♦ All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person other than a councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act. Councillors may only be expelled by resolution of the council or the committee of the council.

Note: Councils may use either clause 15.14 or clause 15.15.

- 15.16 ♦ Clause 15.15 does not limit the ability of the council or a committee of the council to resolve to expel a person, including a councillor, from a council or committee meeting, under section 10(2)(a) of the Act.
- 15.17 A councillor may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for having failed to comply with a requirement under clause 15.12. The expulsion of a councillor from the meeting for that reason does not prevent any other action from being taken against the councillor for the act of disorder concerned.

Note: Clause 15.17 reflects section 233(2) of the Regulation.

- 15.18 A member of the public may, as provided by section 10(2)(a) or (b) of the Act, be expelled from a meeting of the council for engaging in or having engaged in disorderly conduct at the meeting.
- 15.19 Where a councillor or a member of the public is expelled from a meeting, the expulsion and the name of the person expelled, if known, are to be recorded in the minutes of the meeting.
- 15.20 If a councillor or a member of the public fails to leave the place where a meeting of the council is being held immediately after they have been expelled, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the councillor or member of the public from that place and, if necessary, restrain the councillor or member of the public from re-entering that place for the remainder of the meeting.

How disorder by councillors attending meetings by audio-visual link may be dealt with

15.21 Where a councillor is attending a meeting by audio-visual link, the chairperson or a person authorised by the chairperson may mute the councillor’s audio link to the meeting for the purposes of enforcing compliance with this code.

15.22 If a councillor attending a meeting by audio-visual link is expelled from a meeting for an act of disorder, the chairperson of the meeting or a person authorised by the chairperson, may terminate the councillor’s audio-visual link to the meeting.

Use of mobile phones and the unauthorised recording of meetings

15.23 Councillors, council staff and members of the public must ensure that mobile phones are turned to silent during meetings of the council and committees of the council.

Deleted: 1

15.24 A person must not live stream or use an audio recorder, video camera, mobile phone or any other device to make a recording of the proceedings of a meeting of the council or a committee of the council without the prior authorisation of the council or the committee.

Deleted: 2

15.25 Without limiting clause 15.18, a contravention of clause 15.24 or an attempt to contravene that clause, constitutes disorderly conduct for the purposes of clause 15.18. Any person who contravenes or attempts to contravene clause 15.24, may be expelled from the meeting as provided for under section 10(2) of the Act.

Deleted: 3

Deleted: 2

15.26 If any such person, after being notified of a resolution or direction expelling them from the meeting, fails to leave the place where the meeting is being held, a police officer, or any person authorised for the purpose by the council or person presiding, may, by using only such force as is necessary, remove the first-mentioned person from that place and, if necessary, restrain that person from re-entering that place for the remainder of the meeting.

Deleted: 4

16 Conflicts of interest

16.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at public forums, meetings of the council, committees of the council and any briefings or workshops of council in accordance with the council’s code of conduct. All declarations of conflicts of interest and how the conflict of interest was managed by the person who made the declaration must be recorded in the minutes of the meeting at which the declaration was made, or via other written record in the case of public forums, briefings or workshops of Council.

Deleted: either:¶

Deleted: ;

Deleted: ¶

16.2 Councillors attending a meeting by audio-visual link must declare and manage any conflicts of interest they may have in matters being considered at the meeting in accordance with the council’s code of conduct. Where a councillor has declared a pecuniary or significant non-pecuniary conflict of interest in a matter being discussed at the meeting, the councillor’s audio-visual link to the meeting must be suspended or terminated and the councillor must not be in sight or hearing of the meeting at any time during which the matter is being considered or discussed by the council or committee, or at any time during which the council or committee is voting on the matter.

Deleted: , and include details of how the conflict was managed.

17 Decisions of the council

Council decisions

17.1 A decision supported by a majority of the votes at a meeting of the council at which a quorum is present is a decision of the council.

Note: Clause 17.1 reflects section 371 of the Act.

17.2 Decisions made by the council must be accurately recorded in the minutes of the meeting at which the decision is made.

Deleted: ¶
¶

Rescinding or altering council decisions

17.3 A resolution passed by the council may not be altered or rescinded except by a motion to that effect of which notice has been given under clause 3.10.

Note: Clause 17.3 reflects section 372(1) of the Act.

17.4 If a notice of motion to rescind a resolution is given at the meeting at which the resolution is carried, the resolution must not be carried into effect until the motion of rescission has been dealt with.

Note: Clause 17.4 reflects section 372(2) of the Act.

17.5 If a motion has been lost, a motion having the same effect must not be considered unless notice of it has been duly given in accordance with clause 3.10.

Note: Clause 17.5 reflects section 372(3) of the Act.

17.6 A notice of motion to alter or rescind a resolution, and a notice of motion which has the same effect as a motion which has been lost, must be signed by three (3) councillors if less than three (3) months has elapsed since the resolution was passed, or the motion was lost.

Note: Clause 17.6 reflects section 372(4) of the Act.

17.6A [▲ The General Manager will act in accordance with clause 19.12, unless an intention to submit a notice of motion to alter or rescind is verbally communicated to the chairperson and the general manager by close of business the day following the relevant council meeting and the formal written notice of motion to alter or rescind, in conformance with clause 17.4, is provided to the general manager within 48 hours of the closure of the meeting.](#)

Commented [LE7]: Need to review to ensure does not contradict clause 19.12 and section 335(b) LG Act.

17.7 If a motion to alter or rescind a resolution has been lost, or if a motion which has the same effect as a previously lost motion is lost, no similar motion may be brought forward within three (3) months of the meeting at which it was lost. This clause may not be evaded by substituting a motion differently worded, but in principle the same.

Note: Clause 17.7 reflects section 372(5) of the Act.

17.8 The provisions of clauses 17.5–17.7 concerning lost motions do not apply to motions of adjournment.

Note: Clause 17.8 reflects section 372(7) of the Act.

17.9 A notice of motion submitted in accordance with clause 17.6 may only be withdrawn under clause 3.11 with the consent of all signatories to the notice of motion.

17.10 Omitted.

Deleted: and replaced with:

17.11 A motion to alter or rescind a resolution of the council may be moved on the report of a committee of the council and any such report must be recorded in the minutes of the meeting of the council.

Note: Clause 17.11 reflects section 372(6) of the Act.

17.12 ~~◆~~ Subject to clause 17.7, in cases of urgency, a motion to alter or rescind a resolution of the council may be moved at the same meeting at which the resolution was adopted, where:

- (a) a notice of motion signed by three councillors is submitted to the chairperson, and
- (b) a motion to have the motion considered at the meeting is passed, and
- (c) ~~◆~~ the chairperson rules the business that is the subject of the motion is of sufficient urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

17.13 ~~◆~~ A motion moved under clause 17.12(b) can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.12(b) can speak to the motion before it is put.

17.14 ~~◆~~ A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.12(c).

Recommitting resolutions to correct an error

17.15 ~~◆~~ Despite the provisions of this Part, a councillor may, with the leave of the chairperson, move to recommit a resolution adopted at the same meeting:

- (a) to correct any error, ambiguity or imprecision in the council's resolution, or
- (b) to confirm the voting on the resolution.

17.16 ~~◆~~ In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 17.15(a), the councillor is to propose alternative wording for the resolution.

17.17 ~~◆~~ The chairperson must not grant leave to recommit a resolution for the purposes of clause 17.15(a), unless they are satisfied that the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.

17.18 ~~◆~~ A motion moved under clause 17.15 can be moved without notice. Despite clauses 10.20–10.30, only the mover of a motion referred to in clause 17.15 can speak to the motion before it is put.

17.19 ~~◆~~ A motion of dissent cannot be moved against a ruling by the chairperson under clause 17.15.

17.20 ~~◆~~ A motion moved under clause 17.15 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

Commented [LE8]: Amended clause included at clause 17.6A

Deleted: ◆ A notice of motion to rescind a resolution to prevent action proceeding on the resolution must be given verbally to the chairperson and general manager by close of business the day following the relevant Council meeting. The formal written rescission motion signed by three councillors is to be presented to the general manager within 48 hours of the closure of the meeting to prevent action on the resolution to prevent action on the resolution prior to reconsideration of the rescission motion.

Deleted: ◆

18 Time limits on council meetings

18.1 Omitted.

18.2 Omitted.

- 18.3 Omitted.
- 18.4 Omitted.
- 18.5 Omitted.

19 After the meeting

Minutes of meetings

19.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.

Note: Clause 19.1 reflects section 375(1) of the Act.

19.2 At a minimum, the general manager must ensure that the following matters are recorded in the council's minutes:

- (a) the names of councillors attending a council meeting and whether they attended the meeting in person or by audio-visual link.
- (b) details of each motion moved at a council meeting and of any amendments moved to it,
- (c) the names of the mover and seconder of the motion or amendment,
- (d) whether the motion or amendment was passed or lost, and
- (e) such other matters specifically required under this code.

Deleted: b

Deleted: c

Deleted: d

19.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.

Note: Clause 19.3 reflects section 375(2) of the Act.

19.4 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.

19.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting.

Note: Clause 19.5 reflects section 375(2) of the Act.

19.6 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.

19.7 The confirmed minutes of a council meeting must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of its meetings on its website prior to their confirmation.

Access to correspondence and reports laid on the table at, or submitted to, a meeting

19.8 The council and committees of the council must, during or at the close of a meeting, or during the business day following the meeting, give reasonable access to any person to inspect correspondence and reports laid on the table at, or submitted to, the meeting.

Note: Clause 19.8 reflects section 11(1) of the Act.

- 19.9 Clause 19.8 does not apply if the correspondence or reports relate to a matter that was received or discussed or laid on the table at, or submitted to, the meeting when the meeting was closed to the public.

Note: Clause 19.9 reflects section 11(2) of the Act.

- 19.10 Clause 19.8 does not apply if the council or the committee resolves at the meeting, when open to the public, that the correspondence or reports are to be treated as confidential because they relate to a matter specified in section 10A(2) of the Act.

Note: Clause 19.10 reflects section 11(3) of the Act.

- 19.11 Correspondence or reports to which clauses 19.9 and 19.10 apply are to be marked with the relevant provision of section 10A(2) of the Act that applies to the correspondence or report.

Implementation of decisions of the council

- 19.12 The general manager is to implement, without undue delay, lawful decisions of the council.

Note: Clause 19.12 reflects section 335(b) of the Act.

20 Council committees

Application of this Part

- 20.1 This Part only applies to committees of the council whose members are all councillors.

Council committees whose members are all councillors

- 20.2 The council may, by resolution, establish such committees as it considers necessary.
- 20.3 A committee of the council is to consist of the mayor and such other councillors as are elected by the councillors or appointed by the council.
- 20.4 The quorum for a meeting of a committee of the council is to be:
- (a) such number of members as the council decides, or
 - (b) if the council has not decided a number – a majority of the members of the committee.

Functions of committees

- 20.5 The council must specify the functions of each of its committees when the committee is established but may from time to time amend those functions.

Notice of committee meetings

- 20.6 The general manager must send to each councillor, regardless of whether they are a committee member, at least three (3) days before each meeting of the committee, a notice specifying:
- (a) the time, date and place of the meeting, and
 - (b) the business proposed to be considered at the meeting.
- 20.7 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

Attendance at committee meetings

- 20.8 A committee member (other than the mayor) ceases to be a member of a committee if the committee member:
- (a) has been absent from three (3) consecutive meetings of the committee without having given reasons acceptable to the committee for the member's absences, or
 - (b) has been absent from at least half of the meetings of the committee held during the immediately preceding year without having given to the committee acceptable reasons for the member's absences.
- 20.9 Clause 20.8 does not apply if all of the members of the council are members of the committee.

Non-members entitled to attend committee meetings

- 20.10 A councillor who is not a member of a committee of the council is entitled to attend, and to speak at a meeting of the committee. However, the councillor is not entitled:
- (a) to give notice of business for inclusion in the agenda for the meeting, or
 - (b) to move or second a motion at the meeting, or
 - (c) to vote at the meeting.

Chairperson and deputy chairperson of council committees

- 20.11 The chairperson of each committee of the council must be:
- (a) the chairperson, or
 - (b) if the chairperson does not wish to be the chairperson of a committee, a member of the committee elected by the council, or
 - (c) if the council does not elect such a member, a member of the committee elected by the committee.
- 20.12 The council may elect a member of a committee of the council as deputy chairperson of the committee. If the council does not elect a deputy chairperson of such a committee, the committee may elect a deputy chairperson.
- 20.13 If neither the chairperson nor the deputy chairperson of a committee of the council is able or willing to preside at a meeting of the committee, the committee must elect a member of the committee to be acting chairperson of the committee.
- 20.14 The chairperson is to preside at a meeting of a committee of the council. If the chairperson is unable or unwilling to preside, the deputy chairperson (if any) is to preside at the meeting, but if neither the chairperson nor the deputy chairperson is able or willing to preside, the acting chairperson is to preside at the meeting.

Procedure in committee meetings

- 20.15 Subject to any specific requirements of this code, each committee of the council may regulate its own procedure. The provisions of this code are to be taken to apply to all committees of the council unless the council or the committee determines otherwise in accordance with this clause.

- 20.16 Whenever the voting on a motion put to a meeting of the committee is equal, the chairperson of the committee is to have a casting vote as well as an original vote unless the council or the committee determines otherwise in accordance with clause 20.15.

- 20.17 Omitted.

- 20.18 Voting at a council committee meeting is to be by open means (such as on the voices, by show of hands or by a visible electronic voting system).

Closure of committee meetings to the public

- 20.19 The provisions of the Act and Part 14 of this code apply to the closure of meetings of committees of the council to the public in the same way they apply to the closure of meetings of the council to the public.

- 20.20 If a committee of the council passes a resolution, or makes a recommendation, during a meeting, or a part of a meeting that is closed to the public, the chairperson must make the resolution or recommendation public as soon as practicable after the meeting or part of the meeting has ended, and report the resolution or recommendation to the next meeting of the council. The resolution or recommendation must also be recorded in the publicly available minutes of the meeting.

- 20.21 Resolutions passed during a meeting, or a part of a meeting that is closed to the public must be made public by the chairperson under clause 20.20 during a part of the meeting that is webcast.

Disorder in committee meetings

- 20.22 The provisions of the Act and this code relating to the maintenance of order in council meetings apply to meetings of committees of the council in the same way as they apply to meetings of the council.

Minutes of council committee meetings

- 20.23 Each committee of the council is to keep full and accurate minutes of the proceedings of its meetings. At a minimum, a committee must ensure that the following matters are recorded in the committee's minutes:
 - (a) the names of councillors attending a meeting and whether they attended the meeting in person or by audio-visual link,
 - (b) details of each motion moved at a meeting and of any amendments moved to it,
 - (c) the names of the mover and seconder of the motion or amendment,
 - (d) whether the motion or amendment was passed or lost, and

Deleted: b

Deleted: c

(e) such other matters specifically required under this code.

Deleted: d

- 20.24 ♦ All voting at meetings of committees of the council (including meetings that are closed to the public), must be recorded in the minutes of meetings with the names of councillors who voted for and against each motion or amendment, (including the use of the casting vote), being recorded.
- 20.25 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.
- 20.26 Any debate on the confirmation of the minutes is to be confined to whether the minutes are a full and accurate record of the meeting they relate to.
- 20.27 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.
- 20.28 The confirmed minutes of a meeting may be amended to correct typographical or administrative errors after they have been confirmed. Any amendment made under this clause must not alter the substance of any decision made at the meeting.
- 20.29 The confirmed minutes of a meeting of a committee of the council must be published on the council's website. This clause does not prevent the council from also publishing unconfirmed minutes of meetings of committees of the council on its website prior to their confirmation.

21 Irregularities

- 21.1 Proceedings at a meeting of a council or a council committee are not invalidated because of:
 - (a) a vacancy in a civic office, or
 - (b) a failure to give notice of the meeting to any councillor or committee member, or
 - (c) any defect in the election or appointment of a councillor or committee member, or
 - (d) a failure of a councillor or a committee member to declare a conflict of interest, or to refrain from the consideration or discussion of, or vote on, the relevant matter, at a council or committee meeting in accordance with the council's code of conduct, or
 - (e) a failure to comply with this code.

Note: Clause 21.1 reflects section 374 of the Act.

22 Definitions

the Act	means the <i>Local Government Act 1993</i>
act of disorder	means an act of disorder as defined in clause 15.11 of this code
amendment	in relation to an original motion, means a motion moving an amendment to that motion
audio recorder	any device capable of recording speech
<u>audio-visual link</u>	<u>means a facility that enables audio and visual communication between persons at different places</u>

business day	means any day except Saturday or Sunday or any other day the whole or part of which is observed as a public holiday throughout New South Wales
chairperson	in relation to a meeting of the council – means the person presiding at the meeting as provided by section 369 of the Act and clauses 6.1 and 6.2 of this code, and in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 20.11 of this code
this code	means the council's adopted code of meeting practice
committee of the council	means a committee established by the council in accordance with clause 20.2 of this code (being a committee consisting only of councillors) or the council when it has resolved itself into committee of the whole under clause 12.1
council official	has the same meaning it has in the Model Code of Conduct for Local Councils in NSW
day	means calendar day
division	means a request by two councillors under clause 11.7 of this code requiring the recording of the names of the councillors who voted both for and against a motion
foreshadowed amendment	means a proposed amendment foreshadowed by a councillor under clause 10.18 of this code during debate on the first amendment
foreshadowed motion	means a motion foreshadowed by a councillor under clause 10.17 of this code during debate on an original motion
open voting	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means
planning decision	means a decision made in the exercise of a function of a council under the <i>Environmental Planning and Assessment Act 1979</i> including any decision relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act, but not including the making of an order under Division 9.3 of Part 9 of that Act
performance improvement order	means an order issued under section 438A of the Act
quorum	means the minimum number of councillors or committee members necessary to conduct a meeting
the Regulation	means the <i>Local Government (General) Regulation 2021</i> .
webcast	a video or audio broadcast of a meeting transmitted across the internet either concurrently with the meeting or at a later time
year	means the period beginning 1 July and ending the following 30 June

Deleted: 05

23 ♣ **Summary: Procedure in relation to motions**

Motion	Notice?	Seconder required?	Debate	Right of reply	Ref.
General	Yes	Yes	Yes	Yes	10.1-10.4
Amendment	No	Yes	Yes	No	10.10-10.16
Chairperson's Minute	No	No	Yes	Yes	9.6-9.10
Urgency	No	Yes	No	No	9.3-9.5
Rescission/ alteration	Yes	Yes	Yes	Yes	17.3-17.7 s.372 of Act
Urgent rescission/ Alteration	No	Yes	No	No	17.12-17.14
Alteration of order of business	No	Yes	Mover only	No	8.3
Dissent	No	Yes	Mover, Chair only	No	15.8-15.10

Deleted: 9

Audit Risk and Improvement Committee - meeting update

Responsible Officer: Group Manager People and Performance (Helen McNeil)

Recommendation

That Council:

1. Receive and note the attached minutes from the Audit, Risk and Improvement Committee meeting of 26 April 2022; and
2. Approve the attached Internal Audit Plan 2022-25.

Background

The Audit, Risk and Improvement Committee ('Committee') met on 26 April 2022. A copy of the meeting minutes is attached ([Attachment 1](#)).

Key messages

1. Finance

The Committee received and noted the information presented in the Financial Management Report – April 2022 regarding:

- Annual Engagement Plan issued by the Audit Office of NSW for year ending 30 June 2022.
- Revaluations of water network infrastructure.
- The Quarterly Budget Review report furnished to Council's February 2022 meeting applicable for the quarter ending 31 December 2021.
- The Investment report furnished to Council's February 2022 meeting applicable for the month of 31 January 2022.

2. Internal Audit Plan 2022-25

The Committee were presented with and has endorsed a new Internal Audit Plan 2022-25 ([Attachment 2](#)) which sets out the areas recommended for audit based on a high-level assessment of the risks involved in Council's key strategic and operational activities planned for the 2022/2025 period.

The new Internal Audit Plan 2022/25 will also significantly inform and guide the Committee's workplan over this period and has therefore been referred to Council for adoption.

The new Internal Audit Plan 2022/25 was prepared by InConsult, Council's external consultant, and was informed by feedback from Committee members and Council management.

Finance comment

A recurring annual budget allocation exists for the delivery of the Internal Audit Plan. This includes funds for the audit program and Audit Risk and Improvement Committee member sitting fees and expenses. The budget for the 2022/23 financial year is \$32,800 and is considered appropriate at this stage.

3. Adjusted meeting schedule

The Committee meeting scheduled for 28 March 2022 was postponed in response to the first major flood event in February/March 2022.

As a result of the second major flood event in late March 2022, the postponed Committee meeting held on 26 April 2022 proceeded with a limited business agenda.

At this time, the Committee chose to adopt a new meeting schedule for the remainder of the year. This included the cancellation of the May 2022 meeting and the expansion of the October 2022 meeting to include ordinary business in addition to consideration of the Financial Statements.

4. General Manager's verbal update – Floods 2022

The General Manager provided the Committee with a verbal overview of conditions experienced by the organisation during the flood events and the damage identified and activities undertaken following the events. This update is summarised in the Committee meeting minutes ([Attachment 1](#)).

The purpose of this update was to provide the Committee with an understanding of the challenges now being faced by Council, appreciation for any necessary changes to organisational priorities in the future, and any policy or process deviations that had occurred in responding to the flood events, particularly within a procurement context.

Consultation

This report was prepared in consultation with the Audit, Risk and Improvement Committee Chairperson.

Conclusion

This report provides a summary of the key messages from the 26 April 2022 Audit, Risk and Improvement Committee meeting and other associated matters.

Attachment

1. Audit, Risk and Improvement Committee meeting minutes 26 April 2022
2. Proposed Internal Audit Plan 2022/25 ([D22/8832](#))

Rous County Council

Audit, Risk and Improvement Committee Minutes

Tuesday, 26 April 2022

Meeting held via 'Teams' link.

The Chair opened the meeting at 10.10am

In attendance:

Voting Committee

- Brian Wilkinson (Independent member / Chair)
- Andrew MacLeod (Independent member)
- Cr Big Rob (Council member)

Rous County Council

- Phil Rudd (General Manager)
- Helen McNeil (Group Manager People and Performance)
- Guy Bezrouchko (Group Manager Corporate and Commercial)
- Andrew Logan (Group Manager Planning and Delivery)
- Natalie Woodhead-Tiernan (Finance Manager)
- Jonathan Patino (Finance Business Partner)
- Noeline Smith (minute taker)

Other attendees

- Richard Watkinson (Thomas, Noble & Russell)
- Dane Parsons (InConsult)

1. APOLOGIES

Mitchell Morley (InConsult); Gearoid Fitzgerald (NSW Audit Office); Lauren Edwards (Governance and Risk Manager).

2. ACKNOWLEDGEMENT OF COUNTRY

Council showed its respect and acknowledged the Traditional Custodians of the Land, of all Elders, on which this meeting took place.

3. MINUTES OF PREVIOUS MEETING

Minutes of the meeting held 22 November 2021 were noted as presented. Chair noted ICT Business Plan to be referred to July 2022 meeting.

4. DISCLOSURE OF INTEREST

Nil.

5. STANDARD REPORTS

i). Financial Management report

RECOMMENDATION [1/22] (MacLeod/Rob) that the Audit, Risk and Improvement Committee receive and note the information presented in the Financial Management report – April 2022 regarding:

1. Annual Engagement Plan issued by the Audit Office of NSW for year ending 30 June 2022.
2. Revaluations of water network infrastructure.
3. The Quarterly Budget Review report furnished to Council's February 2022 meeting applicable for the quarter ending 31 December 2021.
4. The Investment report furnished to Council's February 2022 meeting applicable for the month of 31 January 2022.

ii). Proposed draft Internal Audit Plan 2022-25

RECOMMENDATION [2/22] (Wilkinson/Rob) that the Audit, Risk and Improvement Committee endorse the Internal Audit Plan 2022/25 as presented.

iii). Adjusted meeting schedule for 2022

RECOMMENDATION [3/22] (Wilkinson/MacLeod) that the Committee:

1. Note the meeting dates previously confirmed at its meeting on 18 October 2021.
2. Confirm new meeting dates for 2022 as: 26 April; 25 July; 17 October (ordinary meeting incl. financial statements) and 28 November commencing at 10.00am.

iv). Floods 2022 (*verbal update by the General Manager*)

RECOMMENDATION [4/22] (MacLeod/Rob) the General Manager's update be received and noted.

General Manager's update:

1. Rocky Creek Dam (RCD) reached Red alert. Evacuation order was in place downstream of RCD. At its peak 550kl/s 46GL in total. Dam performed as per design
2. Emigrant Creek Dam hit Amber alert.
3. Asset inspections are still underway. Several sites in the upper catchment are unsafe to attend (landslips) and areas in the lower catchment still have flood water blocking access.
4. Administration building suffered flooding to Level 2; tenants and our Water lab have been significantly impacted.
5. Investment property on Conway Street was significantly impacted with the tenant not extending their lease.

6. Visitor Information Centre (VIC) building in Molesworth Street was significantly impacted. Items that could be saved have been. The rebuilding of this site is low on LCC priorities.
7. South Lismore Depot all - first-floor buildings significantly impacted, flood water lapped the top step but did not enter the second-floor training room.
8. Creek crossing at Coopers Creek - emergency repairs have commenced. 11m of the creek crossing has been compromised and not supported.
9. Broadwater main has been significantly impacted, risk of failure. We have alternative means to feed the area, reduce supply (potential water restrictions).
10. Lower river - several levees have been impacted (washed out), flood gates damaged / ripped off.
11. Wyrallah Road Depot was not impacted, DR site operated as designed.
12. Woodburn Depot received 1.5m of flood water at the site, workshop equipment has been destroyed, however electrics were okay. Workshop is operational again.
13. All impacted buildings we are making safe, but no works are being undertaken until the master planning for Gallans Road has been finalised. This will provide the sites future needs / design requirements.
14. Chemical supply for Nightcap Water Treatment Plant during these events continues to be a challenge. CO2 once again was very difficult to obtain. We have been in contact with our supplier regarding additional storage options, nothing is available until September 2022.
15. The second largest CO2 supplier has exited from the market. We are working with DPIE and the Water Directorate regarding future options. Tweed Shire has been without Co2 for 2 months.
16. A number of debriefs have been undertaken, what worked, what did not, lessons learnt etc.
17. ICT review is very important. The system worked as designed, however we are noticing that these events are bigger and longer than historical events, and many of the assumptions in our assessments are underestimating the impact.
18. Insurance coverage capped at \$2M, also included the Lismore Levee scheme.

Summary: Procurement non-compliance during Flood 2022 events and risk minimisation and oversight arrangements

Following the recent disaster declared flooding events requiring emergency responses, which occurred at multiple areas along the Australian eastern seaboard, and more so significantly in the Northern Rivers on 28 February 2022 and again on 30 March 2022, many of Council's "business as usual" processes and procedures were unable to be followed:

1. The first flood event resulted in loss of power and loss of corporate systems. This meant many "business as usual" arrangements were inaccessible or unusable.
2. Many businesses which Council has purchase arrangements with, (including procurement agreements and standing purchase orders), have not been able to trade.

3. Lack of electricity in the Lismore CBD and surrounding areas has meant that EFTPOS machines and the use of corporate credit cards for miscellaneous purchases has not been able to occur.
4. Lack of available tradespeople and services has meant that pre-approved service providers are unavailable.
5. Staff members have been directly impacted by the flooding events. This meant a reduction in available staff and the need to re-allocate tasks to different teams / team members.
6. Loss of / lack of access to Council worksites.
7. Urgent need for cleaning and repairs to facilitate return to work and proper management of WHS issues including mould and other effects of flooding.

Acquisition of goods and services is governed s55 of the Local Government Act 1993 - http://classic.austlii.edu.au/au/legis/nsw/consol_act/lga1993182/s55.html

s55(3)(k) allows contracts to be entered into outside of the s55 requirements in the case of emergencies. This 'exception' has and is being utilised as a consequence of the flood events, for example:

1. Safety equipment (e.g. gas detection monitors, PPE, harnesses).
2. Building/construction demolition, remedial works.
3. Engineering/Consultancy and technical expertise to investigate and report on damages and solutions
4. Electrical isolation, temporary power sources (generators) and re-fit out works.
5. Plant/Hire equipment (generators, tools, forklifts)
6. Plumbing, gas fitting and air-conditioning works.
7. Fuel purchases for emergency generator power and fleet requirements.
8. Cleaning products and services for safe health and environment requirements of building habitation.
9. Credit card purchases from suppliers not currently set up on Rous County Council's ERP system.

In the near future we will be realigning with normal procurement practices when and where possible (dependable on resources, materials and timelines).

Particular focus and attention will be directed at credit card statements and purchase orders raised in the relevant period including purchase orders raised after a transaction or purchase has been made.

For the purposes of s55(3)(k), staff anticipate that the instances where the 'emergency' procurement exception will genuinely apply will continue to decline. However, it is important to note that the extent of disruption to supply of some specific goods and services may mean that the 'emergency' exception continues to validly apply for a minimum of 12 months. The situation will be monitored, and updates provided once the recovery phase progresses to an extent where staff can determine with a degree of certainty, which goods and services will recommence under "business as usual" arrangements, and which will need to be reconsidered. This will become clearer in the months ahead.

6. CONFIRMATION OF MINTUES

i). Audit, Risk and Improvement Committee meeting minutes 26 April 2022

RECOMMENDATION [5/22] (MacLeod/Rob) that the minutes of the Audit, Risk and Improvement Committee of 26 April 2022 be accepted as presented.

7. NEXT MEETING

Monday, 25 July 2022.

8. CLOSE OF BUSINESS

There being no further business the meeting closed at 11.49am.

Attachment 1



Rous County Council

Internal Audit Plan 2022-25

FINAL

28 April 2022

InConsult Pty Ltd

Prepared for: Rous County Council

Prepared by: Dane Parsons – Internal Audit Manager, InConsult

Endorsed by ARIC on 28/04/2022



Contents

Introduction	3
Purpose	3
Role of Internal Audit.....	3
Audit Planning Approach	3
Organisational Context	4
Finances	4
Audit Universe.....	5
Risk Assessment	5
Other Considerations.....	6
Suggested Audit Engagements	7
Appendix A – Auditable Unit Risk Assessment	8
Appendix B – Proposed Internal Audit Plan for the Period 1 July 2022 to 30 June 2025	11
Appendix C – Factors Used in Risk Assessment	12

Internal Audit Plan

Introduction

Rous County Council's internal audit function has been established to provide independent assurance and assistance to Council on risk management, control, governance, continuous improvement and external accountability responsibilities.

The International Standards for the Professional Practice of Internal Auditing require internal audit to develop a risk-based audit plan that establishes the priorities of the internal audit activity, consistent with the goals of the organisation.

Good practice internal audit plans need to be based on a risk assessment of the Council's key strategic and operational objectives and functions. The input of senior management and the Audit, Risk and Improvement Committee must also be considered.

Accordingly, this plan has been developed to guide the internal audit activity over the next three years and is based on a high-level assessment of the risks involved in Council's objectives, key functions and activities undertaken in February 2022.

Purpose

The purpose of this Plan is to identify key risks and auditable units and establish priorities for internal audit activities for the period 1 July 2022 to 30 June 2025.

Role of Internal Audit

The role of internal Audit at Rous County Council is to provide an independent, objective assurance and consulting service to add value and improve Council's operations. It helps Council accomplish its objectives by bringing a systematic, disciplined approach to evaluating and improving the effectiveness of risk management, control and governance processes across all activities and processes.

Audit Planning Approach

The Internal Audit Plan is based on an assessment of the goals, objectives and business risks of Council, and also takes into consideration any special requirements of the Audit, Risk and Improvement Committee and Management.

A risk-based rolling program of internal audits over a three-year period is developed. This approach is designed to be flexible, dynamic and timelier in order to meet the changing needs and priorities of Council.

The audit planning approach and methodology involves:

1. Establishing organisational context
2. Identification of the Audit Universe

3. Risk Assessment
4. Selection of Audit Engagements

Organisational Context

To assist in the development of an appropriate Internal Audit Plan, a high-level review of Rous County Council was undertaken. The following sources of information were used in the review:

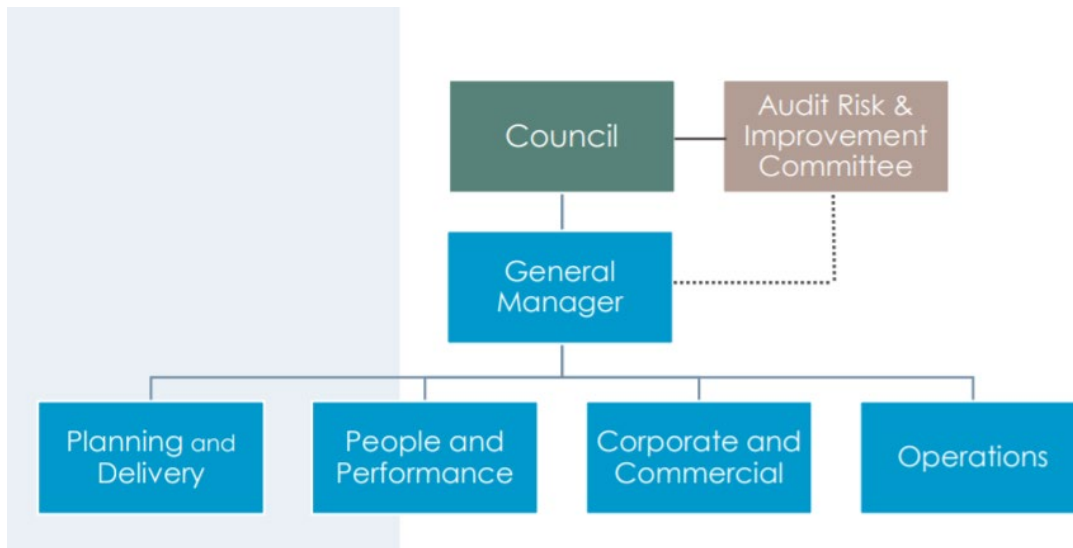
- 2020/21 Annual Report and Financial Statements
- Integrated Planning and Reporting Framework 2017-22
- Internal Audit Strategy 2019-2022
- Previous Internal Audit Reports
- Operational Risk Registers All Directorates

Meetings were held with the General Manager, Departmental Managers, the Governance and Risk Manager and independent members of the Audit, Risk and Improvement Committee to understand the scope of Council functions and activities and identify and analyse the inherent risks involved in each.

Organisation function and structure

Rous County Council is a county council constituted under the Local Government Act 1993, with three main functions: bulk water supply, weed biosecurity and flood mitigation.

Council has adopted the following functional organisation structure. Council employs approximately 91 Full Time Equivalent staff.



Finances

Council's revenue from continuing operations in the 2020/21 financial year was approximately \$30.58m. Operating expenses were approximately \$26.25m. User charges and fees were the major

source of income (68%) whilst the major expense items were employee costs (35%) and materials and services (34%).

Key financial performance indicators were:

- Unrestricted current ratio - 7.03x
- Operating performance ratio - (4.92%)
- Building and infrastructure renewals ratio – 1.00x
- Debt service ratio – 1.59x
- Own source operating revenue ratio – 78.85%
- Cash expense cover ratio - 25.80 months

Audit Universe

Based on a high-level risk assessment of Council activities conducted in February 2022, an ‘audit universe’ of auditable areas has been developed. The list of auditable areas is detailed in Appendix A. The specific controls to be audited within each area should be determined at the commencement of an audit assignment based on a detailed risk assessment of the area in question.

Risk Assessment

Risk Assessment

The high-level risk assessment considered a number of risk types:

- Financial - Risks that impact revenue, expenses, assets, liabilities, reserves
- Legal and Regulatory - Risks that impact compliance with or enforcement of various legislation and regulatory requirements
- Human - Risks that impact staff wellbeing, working conditions and the working environment
- Business Disruption - Risks that impact on Council’s ability to deliver services to customers
- Environment - Risks that impact the natural environment
- Reputation – Risks that have an impact on Council’s reputation
- Strategic - Risks that impact the development and execution of mid to long term plans

Consideration was also given to risks identified in Council’s risk register and risks arising from use of technology.

In accordance with Council’s adopted risk matrix, we categorised risk levels as Extreme, High, Medium or Low. See Appendix C for an explanation of the risk ratings that were used.

Internal Control Environment

We also made an assessment of the strength of the internal control environment in place for each auditable unit. This was purely based on discussions with management and review of Council’s risk register and is not supported by any audit evidence. We categorised the internal control environment according to the following scale:

- **Effective** – a robust system of internal controls is in place that is effective in reducing the likelihood of risks occurring and/or the consequence if they do occur. Controls are also designed to detect possible risk events.
- **Partially Effective** – controls are in place and are generally effective, but some gaps may exist and/or the system of controls could be further strengthened.
- **Not Effective** – the control system is inadequate and unlikely to prevent risks from occurring at some point in the future.

Other assurance activities

Many of Council's functions are subject to a range of assurance activities. For example, financial statements and key financial controls are audited annually by the external auditor, Work Health and Safety audits and inspections may be carried out by the WHS team or external authorities and environmental licencing requirements are periodically reviewed and audited by the relevant regulatory authority. We assessed the level of other assurance activities in place using the following scale:

- **Externally Reviewed** – there are regular independent reviews or audits undertaken by external parties that provide a high level of certainty that controls are working effectively as intended.
- **Internal Oversight Only** – there are no independent checks undertaken, but internal oversight is conducted by management and only provides a limited degree of assurance.

Other Considerations

The following factors were also taken into consideration when developing the Internal Audit Plan:

Alignment with Corporate Risks

Council has a register of risks which may impact on the achievement of corporate objectives. These risks were considered in developing the Internal Audit Plan. These registers are currently due for review, and it is recommended that Council complete this review as soon as possible.

Previous audits

Consideration has been given to the timing of previous audits that have been conducted. An assessment has been made of the appropriate timing for future audit of those areas that have been audited within the last five years.

Budget and organisational capacity

Council's budget allows for approximately one internal audit (IA) to be completed per year. Additional audits may be carried out if considered appropriate by management and the ARIC. Council should consider supplementing the internal audit program with other forms of assurance including Control Self Assessments in each critical area of operation that is unlikely to be audited over the next three years.

Time Horizon

The Internal Audit Plan has been developed with a time horizon of three years out to July 2025.

Functional Audits v Detailed Activity Audits

Given the size of the audit universe, the capacity of the organisation to respond to internal audit recommendations and the limited resources available for conducting internal audits, the plan is focused on reviewing high level/ high risk functions. For example, rather than splitting procurement into multiple separate audits e.g. petty cash, tendering, credit cards, stores etc. the plan identifies a single broad procurement audit covering all types of procurement. Similarly, rather than conducting an audit specifically on delegations of authority, it is envisaged that delegations would be reviewed as a component of other audits e.g. in a procurement audit, testing would be done to verify that purchasing delegations are being complied with. Further to this, a list of additional audits has been suggested to add flexibility in the case of a specific concern arising or Management / ARIC decides another audit would add greater overall value to the organisation.

Suggested Audit Engagements

Based on the high-level risk assessment and in recognition of the context in which Council operates, a suggested priority for each auditable unit has been determined. Based on the suggested priorities the strategic audit plan is presented in **Appendix B**.

The precise controls to be audited or assessed within each audit area will need to be determined prior to the commencement of the audit engagement.

Finally, it should be noted that the suggested internal audit plan is a guide only. Council management may decide to alter the plan if there are special considerations that would not have been appropriately considered during the risk assessment.

Appendix A – Auditable Unit Risk Assessment

Activity/ Auditable Unit	Inherent Risk Level	Control Environment Rating	Other Assurance	Internal Audit Priority	Rationale/Notes (NB: Content of this column has been redacted due to commercial sensitivities)
Asset Management	High	Partially Effective	Internal Oversight Only	High	
Business Continuity / Emergency Management	High	Partially Effective	Internal Oversight Only	High	
Commercial Operations	High	Partially Effective	Internal Oversight Only	High	
Catchments / River Health / Water Conservation	High	Effective	Internal Oversight Only	Medium	
Customer Service	High	Effective	Internal Oversight Only	Medium	
Cyber Security	Extreme	Partially Effective	Internal Oversight Only	Very High	
Data Management / Analysis	High	Partially Effective	Internal Oversight Only	High	
Employee Management	High	Effective	Internal Oversight Only	Medium	
Enterprise Risk	High	Effective	Externally Reviewed	Medium	
Environmental Management	Extreme	Effective	Internal Oversight Only	High	

Financial Controls	High	Effective	Externally Reviewed	Medium	
Fraud and Corruption Prevention	Extreme	Effective	Internal Oversight Only	High	
Flood Mitigation / Floodplain Management	High	Partially Effective	Internal Oversight Only	Medium	
Grant Management	High	Partially Effective	Internal Oversight Only	Medium	
Information Management	High	Partially Effective	Internal Oversight Only	High	
Inventory Management	High	Partially Effective	Internal Oversight Only	High	
IT General Controls / ICT Strategy	High	Partially Effective	Internal Oversight Only	High	
Long Term Financial Planning	Extreme	Partially Effective	Externally Reviewed	High	
Operations	High	Partially Effective	Internal Oversight Only	High	
Payroll	High	Effective	Externally Reviewed	Medium	
Procurement	High	Partially Effective	Externally Reviewed	High	

Project Management	Extreme	Partially Effective	Internal Oversight Only	Very High	[Redacted]
Water Security	Extreme	Effective	Internal Oversight Only	High	
Work Health and Safety	Extreme	Partially Effective	Externally Reviewed	High	

Appendix B – Proposed Internal Audit Plan for the Period 1 July 2022 to 30 June 2025

Activity/ Auditable Unit	Internal Audit Priority	Confirmed	Likely/ Indicative		Possible Scope / Comments
		1 2022/23	2 2023/24	3 2024/25	
IT General Controls / ICT Strategy	High	IA			Comprehensiveness of proposed ICT Strategy, general IT controls, user access, physical access, password controls, management of systems and updates.
Information Management	High		IA		Information required to be held, systems in use, utilisation of systems, ease of access to records, GIPA enquiry handling.
Project Management	Very High			IA	Project management methodology, reporting and monitoring, adequacy of framework, adherence to framework. Project delivery and governance. Focus on Future Water Projects.
Cyber Security	Very High	Timing to be determined.			This should ideally be completed in the next 18 months. Specialist audit, may need to sit outside of the Internal Audit Plan due to limitations of audit plan.

To be considered for audit if additional funds/ capacity available. Otherwise, key controls should be defined, monitored and assessed as part of a rolling plan of control assessments:

Activity/ Auditable Unit	Internal Audit Priority
Asset Management	High
Business Continuity / Emergency Management	High
Commercial Operations	High
Data Management / Analysis	High
Environmental Management	High
Fraud and Corruption Prevention	High

Activity/ Auditable Unit	Internal Audit Priority
Inventory Management	High
Operations	High
Procurement	High
Long Term Financial Planning	High
Water Security	High
Work Health and Safety	High

Appendix C – Factors Used in Risk Assessment

Impact Scale						
Category	Impact	Negligible 1	Minor 2	Moderate 3	Major 4	Severe 5
Financial	- Financial loss	- Operating blowout of 1%. - Reduction in operating profit of >1%.	- Operating blowout of 1 - 5%. - Reduction in operating profit of 1 - 5%.	- Operating blowout of 5 - 10%. - Reduction in operating profit of 5 - 10%.	- Operating blowout of 20 - 30%. - Reduction in operating profit of 20 - 30%.	- Operating blowout of >30%. - Reduction in operating profit of >30%.
People / Safety	- Loss of personnel - Decrease in productivity - Personal Harm	- Adverse impacts result in minimal change to work conditions. - No injury or harm to persons.	- Staff required to work extra hours resulting in short-term increase in stress levels. - Potential for minor injury requiring first aid treatment.	- Staff required to work long hours for a sustained period affecting wellbeing and causing unsafe work practices. - Potential for injury or illness resulting in medical attention and several days off work.	- Sustained longer working hours and heavy work loads resulting in sharp increase in sick leave, unsafe work practices and stress related conditions. - Potential long term or serious injury.	- Extended working hours and workloads for long periods resulting in breaches of OHS regulations, injuries, extended sick leave, resignations. - Potential death, permanent disability or ill-health.
Environmental	- Environmental damage	- Minor effects on biological or physical environment.	- Moderate, short term effects but not affecting ecosystem functions.	- Serious medium term environment effects.	- Very serious long-term environmental impairment of ecosystem functions.	- Most serious irreversible environment impairment of ecosystem functions.
Legal / Compliance	- Compliance/legal breach	- Minor legal issues.	- Minor non-compliance with regulation.	- Serious breach of regulation with investigation and report to authority and/or moderate fine possible.	- Major breach of regulation. - Major litigation.	- Loss of licence. - Significant prosecution and fines. - Very serious litigation including class action.
Reputational / Brand	- Loss of Reputation	- Public complaint retained in-house or dealt with via normal procedures.	- Minor adverse local public or media attention or complaints.	- Attention from media and/or heightened concern by local community.	- Significant adverse national media attention.	- Serious public or media outcry.
Strategic	- Costs exceed budget - Failure to attract & retain high quality staff	- Localised concern - No impact on long term viability.	- Detrimental to short term profitability or achievement of current year objectives.	- Detrimental to mid-term profitability or achievement of next three years' objectives	- Significant long-term impacts. - Will require change to strategic direction and objectives.	- Business units no longer viable.

Likelihood			
Probability Factor	Description	Frequency	Rating
Almost Certain	There is a >90% chance that the event will occur once in the next 12 months.	Expected to occur in most circumstances.	5
Likely	There is a 65% - 90% chance that the event will occur once in the next 12 months.	Will probably occur in most circumstances.	4
Possible	There is a 35% - 65% change that the event will occur once in the next 12 months.	May occur at some point.	3
Unlikely	There is a 10% - 35% chance that the event will occur in the next 12 months.	Could occur at some point.	2
Rare	There is a <10% chance that the event will occur once in the next 12 months.	May only occur under exceptional circumstances.	1

Risk Ratings	Low	Medium	High	Extreme
Negligible	Minor	Moderate	Major	Severe
5	10	15	20	25
4	8	12	16	20
3	6	9	12	15
2	4	6	8	10
1	2	3	4	5

Investments policy (reviewed)

Responsible officer: Group Manager Corporate and Commercial (Guy Bezrouchko)

Recommendation

That Council note this report and re-adopt the existing Investments policy without amendment

Background

The Investments policy is subject to an annual review and was last reviewed in April 2021. Council's policy incorporates the best practice principles established by the NSW Office of Local Government, namely the Investment Policy Guidelines (May 2010), issued under section 23A of the *Local Government Act 1993* (Director-General's guidelines). The policy also includes specific local guidelines on diversification and application of credit rating risk that Council applies to its process and procedures for investment management.

• Threshold and exposure

The existing policy establishes that the maximum percentage of the portfolio that may be invested with rated Authorised Deposit-Taking Institutions (ADIs) and unrated ADIs is set as follows:

Credit Rating (Standard & Poor's Long-Term)**	Maximum Limit	Single Entity Exposure Limit	Max Tenor
AAA	100%	100%	3 years
AA+ to AA-	100%	100%	3 years
A+ to A	100%	30%	3 years
A-	40%	20%	3 years
BBB+	30%*	10%	3 years
BBB		5%	1 year
BBB- & below – local ADIs	5%	5%	1 year
BBB- & below - other		\$250k	1 year

*Sub-limit of 10% applies to ADIs rated BBB+ & BBB.

** Where a counterparty has two or more ratings, it is the Standard & Poor's equivalent of the lower of those ratings that shall apply for the purposes of the Investments policy.

Council's current counterparty risk is considered appropriate and manageable in relation to Council's Investment policy. This view has been formed on the basis that Australian ADIs are soundly managed within the Australian Prudential Regulation Authority frameworks.

Governance

Section 625 of the *Local Government Act 1993* provides that a council may invest money that is not, for the time being, required by it for any other purpose. Money may be invested only in a form of investment notified by order of the Minister published in the Gazette. The proposed policy is consistent with the '*Local Government Act 1993 – Investment Order*' issued 12 January 2011.

Finance

Rous County Council adopted a more conservative investment strategy in 2021 to access TCorp's favourable borrowing rates for Future Water Strategy projects. The current policy approach remains appropriate and adheres to the TCorp guidelines.

Consultation

The current policy has been reviewed by the Finance Manager in combination with consideration of constituent councils' investment policies and investment guidelines issued by TCorp.

Conclusion

The current policy complies with all regulatory requirements and Council's investment objectives. No changes are proposed to the 2022 policy.

Attachment:

1. Investments policy

Policy



Investments

Adopted by Council: 21 April 2021

To provide guidelines for the investment of Council money safeguarding capital, maintaining sufficient liquidity, maximising interest earnings and legislative compliance.

Safety

Teamwork

Accountability

Respect

Contents

Background	2
1. Policy objectives	2
Policy statement	2
2. Legislative authority for investments	2
3. Delegation of authority	2
4. Prudent person standard.....	2
5. Conflict of interest	3
6. Ethical investment.....	4
7. Approved and prohibited investments	4
8. Risk management guidelines	4
9. Liquidity risk parameters	5
10. Credit risk parameters.....	5
11. Performance benchmarks	6
12. Reporting	6
13. Threshold breaches	6
14. Investment advisor.....	6
Attachment	8

Background

1. Policy objectives

- 1.1 To provide a framework for the investing of Council's funds at the most favourable rate of interest available to it at the time while having due consideration of risk and security for that investment type and ensuring that liquidity requirements are being met.
- 1.2 While exercising the power to invest, consideration is to be given to the preservation of capital, liquidity, and the return on investment in line with TCorp investment guidelines:
 - i). Preservation of capital is the principal objective of the investment portfolio.
 - ii). Investments are to be placed in a manner that seeks to ensure security and safeguarding the investment portfolio.
 - iii). Investments should be allocated to ensure there is sufficient liquidity to meet all reasonably anticipated cash flow requirements, as and when they fall due, without incurring the risk of significant costs due to the unanticipated sale of an investment.
 - iv). Investments are expected to achieve a market average rate of return in line with Council's risk tolerance.
- 1.3 This policy only deals with Council's investments with financial institutions and does not consider investments Council may wish to make in other forms of capital, such as property.

Policy statement

2. Legislative authority for investments

All investments are to comply with the following:

- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*
- *Trustee Act 1925*
- *Banking Act 1959 (Cth)*
- Ministerial Investment Order
- Local Government Code of Accounting Practice and Financial Reporting
- Australian Accounting Standards
- Division of Local Government circulars.

3. Delegation of authority

Authority for implementation of the 'Investment' policy is delegated by Council to the General Manager in accordance with the *Local Government Act 1993*.

The General Manager or a delegated representative has authority to invest Council's funds. Officers delegated with authority to manage Council's investments shall be recorded and required to acknowledge that they have received a copy of this policy and understand their obligations in this role.

The placement of investments requires a minimum of two signatures from officers with delegated authority to invest surplus funds.

4. Prudent person standard

The investment will be managed with the care, diligence and skill that a prudent person would exercise. As trustees of public monies, officers are to manage Council's investment portfolios to safeguard the portfolio in accordance with the spirit of this policy. The matters to which a prudent person shall have regard when making an investment on behalf of another are an attachment to this policy (Section 14C *Trustee Act 1925* (NSW) and Ministerial Order).

It is expected that the skills of officers making investments will include:

- i). An understanding of this policy and associated legislation such that when placing an investment all relevant conditions are considered and weighed-up.
- ii). An understanding of the current positioning of the financial markets, i.e. what is the current 90-day Bank Bill Swap (BBSW) rate and yield curve.
- iii). An understanding of the type of investments in which they are dealing, i.e. investment rate offered, term to maturity and the organisation that is receiving and using the funds. Also the underlying conditions of the transaction that impact risk and reward, including circumstances in which the user of the funds may default in payment of capital and interest.
- iv). An understanding of the institution that will receive and use the funds, including their credit worth, i.e. current Standard and Poors rating/if they are Australian Prudential Regulation Authority (APRA) regulated.

The role of an investing officer will be to:

- i). Avail themselves of current market information and investment options.
- ii). Be aware of Council's current liquidity position and the options that best suit Council in terms of length of the investment.
- iii). In most instances the form of investment shall be a term deposit with an Authorised Deposit-taking Institution (ADI) and the investing officer shall consider at least three quotes from different ADIs. Typically, the investing officer becomes aware of daily rates by telephoning the institution or receiving an email.
- iv). Council's investment placement sheet is completed and then signed by two investment officers. The preferred institution is then advised by telephone or email that they have been successful, and arrangements are made for funds to be transferred as agreed, ensuring that the recipient institution provides Council with appropriate acknowledgement and documentation following their receipt of funds.
- v). Where the form of investment is not a term deposit, the matter shall be discussed between at least two investment officers prior to making a placement.

The investing officer shall maintain an investment register, which shall include:

- i). The source and the amount of money invested.
- ii). Particulars of the security or form of investment in which the money was invested.
- iii). The term of the investment (i.e. placement and maturity dates where applicable).
- iv). If appropriate, the rate of interest to be paid, and the amount of money that Council has earned, in respect of the money invested.

5. Conflict of interest

Officers shall refrain from personal activities that would conflict with the proper execution and management of Council's investment portfolio. This policy requires officers to disclose any conflict of interest to the General Manager.

Officers are also required to provide written notice of any private employment or contract work that may conflict with their Council duties in accordance with section 353 of the *Local Government Act 1993*.

Independent advisors are also required to declare that they have no actual or perceived conflicts of interest.

6. Ethical investment

This policy is limited in accommodating ethical investment considerations. However, Council will attempt to give preference to financial institutions that do not invest in or finance the fossil fuel industry or other unethical institutions where:

- The investment is compliant with Council's Investments policy.
- The investment rate of interest is favourable to Council relative to other similar investments that may be on offer to Council at the time of the investment.

This information will be sourced from the following websites:

- www.marketforces.org.au - which is an affiliate project of the Friends of the Earth Australia, and
- www.climatebonds.net – certification by the Climate Bond Initiative as meeting the Climate Bonds Standard criteria.

7. Approved and prohibited investments

7.1 Investments are limited to those allowed by the most current Ministerial Investment Order that has been issued by the NSW Minister for Local Government and include:

- i). Any public funds or securities issued by or guaranteed by the Commonwealth, any State of the Commonwealth, or a Territory.
- ii). Any debentures or securities issued by a council (within the meaning of the *Local Government Act 1993*).
- iii). Interest bearing deposits with, or any debentures or bonds issued by, an ADI (as defined in the *Banking Act 1959*), but excluding subordinated debt obligations.
- iv). Any bill of exchange that has a maturity date of not more than 200 days; and if purchased for value confers on the holder in due course a right of recourse against a bank that has been designated as an ADI by APRA.
- v). A deposit with the Treasury Corporation or investments in an Hour-Glass investment facility of the Treasury Corporation.
- vi). Investments grandfathered under the previous Ministerial Investment Order.

7.2 In accordance with the current Ministerial Investment Order, this policy prohibits any investment carried out for speculative purposes including but not limited to:

- i). Derivative-based instruments.
- ii). Principal only investments or securities that provide potentially nil or negative cash flow.
- iii). Stand-alone securities issued that have underlying futures, options, forwards contracts and swaps of any kind.

This policy also prohibits the use of leveraging (borrowing to invest) of an investment.

8. Risk management guidelines

Council's strategy is to preserve the capital invested by diversifying with different approved financial institutions on the short-term money market (minimum 70% of portfolio to be 12 months or less).

Investments obtained are to be considered in light of the following key criteria:

- i). Preservation of Capital – the requirement for preventing losses in an investment portfolio's total value (considering the time value of money).
- ii). Diversification – setting limits to the amounts invested with a particular financial institution or government authority to reduce credit risk.
- iii). Credit risk – the risk that Council has if an institution fails to pay the interest and or repay the principal of an investment.

- iv). Market risk – the risk that the fair value or future cash flows of an investment will fluctuate due to changes in market prices.
- v). Liquidity risk – the risk an investor is unable to redeem the investment at a fair price within a timely period.
- vi). Maturity risk – the risk relating to the length of term to maturity of the investment. The larger the term, the greater the length of exposure and risk to market volatilities.
- vii). Rollover risk- the risk that income will not meet expectations or budgeted requirement because interest rates are lower than expected in future.

9. Liquidity risk parameters

- 9.1 All investments are to be placed with institutions regulated by APRA in accordance with the *Banking Act 1959*, i.e. ADIs; the Local Government Financial Services Pty Ltd or the NSW Treasury Corporation but excluding subordinated debt obligations.
- 9.2 At least three quotations shall be obtained from qualifying institutions whenever an investment is proposed. The best quote of the day will be successful, providing the investment will not breach any parameters contained within this policy, and after allowing for administrative and banking costs.
 - a. Not more than 30% of the portfolio can be placed in investments exceeding 12 months to maturity and no investments exceeding three years to maturity.

10. Credit risk parameters

- 10.1 Investment portfolio parameters are risk-management tools used to manage credit risk by diversifying the portfolio to avoid a narrow concentration of investments. Investment credit risk parameters are based on credit rating bands as published by the credit rating agencies (e.g. Standard and Poor's, Moody's, Fitch).
- 10.2 Council will use Standard and Poor's long-term credit ratings (or Moody's or Fitch equivalents). The Standard and Poor's ratings are broadly defined as follows:

AAA	Extremely strong capacity to repay
AA+, AA, AA-	A very strong capacity to repay
A+, A, A-	A strong capacity to repay
BBB+, BBB	Adequate protection and adequate capacity to pay

- 10.3 The following credit risk parameters apply to the investment portfolio:

Credit Rating (S & P Long Term)**	Maximum Limit	Single Entity Exposure Limit	Max Tenor
AAA	100%	100%	3 years
AA+ to AA-	100%	100%	3 years
A+ to A	100%	30%	3 years
A-	40%	20%	3 years
BBB+	30%*	10%	3 years
BBB		5%	1 year
BBB- & below – local ADIs	5%	5%	1 year
BBB- & below - other		\$250k	1 year

This does not apply to the Commonwealth Bank as this institution deals with Council's transaction banking. Any excess funds that are unable to be invested in Term Deposits or other allowable instruments to allow for cash flow liquidity are placed with the Commonwealth Bank.

11. Performance benchmarks

11.1 Investment performance will be measured monthly, in relation to both current month and 12-month rolling returns, against the:

- Average 90-day BBSW
- Earnings to the approved budget.

12. Reporting

12.1 The *Local Government (General) Regulation 2005* (clause 212) requires a report on investments be presented to Council at each ordinary meeting.

12.2 The report to Council will include, as a minimum:

- Total value of the portfolio and the balance of the trading bank account.
- Complete list of all investments in the portfolio.
- Break-up of the portfolio per institution, showing the rating for each institution and which investments are Australian Government guaranteed or not.
- Comparison of interest earned to budget for the month and year to date.
- Comparison of weighted average interest rate and 90-day BBSW for the month and year to date.
- Statement as to whether the investments are in accordance with the *Local Government Act 1993*, Regulation and Council's 'Investments' policy.
- Commentary on portfolio performance and other matters of interest.

12.3 All investments are to be appropriately recorded in Council's financial records and reconciled at least on a monthly basis.

13. Threshold breaches

13.1 This policy imposes limits and thresholds in relation to the acquisition and holding of investments. However, due to changes in the amount of Council's investment portfolio over time, situations may occur where these limitations or thresholds are breached.

13.2 Where limitations or thresholds are breached due to a change in the overall size of the total investment portfolio, or a possible change in ratings of the financial institutions, the following process will apply:

- Immediate forced sale of the investments in breach of the limits or thresholds will not be required unless, in the General Manager's opinion, such sale is necessary to protect the value of the overall investment portfolio.
- Immediate freeze on acquisitions of new investments in the relevant category, until the portfolio can be effectively managed back to align with the requirements of this policy.
- The objective will be to manage the portfolio back in accordance with the policy limits, within three months from the date the portfolio first exceeds the limit or threshold.

14. Investment advisor

The Council's investment advisor must be licensed by the Australian Securities and Investment Commission. The advisor must be an independent person who has no actual or potential conflict of interest in relation to investment products being recommended and is free to recommend the most appropriate product within the terms and conditions of the Investments policy. The independent advisor is required to provide written confirmation annually that they do not have any actual or potential conflicts of interest in relation to the investments they are recommending or reviewing, including that they are not receiving any commissions or other benefits in relation to the investments being recommended or reviewed.

Contact officer

Group Manager Corporate and Commercial.

Related documents**Policies**

N/A

Procedures

N/A.

Legislation

- *Local Government Act 1993*
- *Local Government (General) Regulation 2005*
- *Trustee Act 1925 (relevant provision extracted – refer to attachment).*
- *Banking Act 1959 (Cth)*

Other

- Ministerial Investment Order
- Local Government Code of Accounting Practice and Financial Reporting
- Australian Accounting Standards
- Office of Local Government circulars.
- TCorp Investment Guidelines

Office use only	File no.: 172/13	Next review date: Annually	
Version	Purpose and description	Date adopted by Council	Resolution no.
1.0		21/12/2011	106/11
2.0	Annual review	21/11/2012	109/12
3.0	Annual review	19/11/2014	114/14
4.0	Annual review	16/03/2016	19/16
5.0	Annual review, includes merger of three counties	15/03/2017	19/17
6.0	Annual review	16/05/2018	36/18
7.0	Annual review	17/04/2019	25/19
8.0	Annual review	21/04/2021	18/21

SECTION 14C NSW TRUSTEE ACT 1925

NSW legislation website

14C Matters to which trustee is to have regard when exercising power of investment

- (1) Without limiting the matters that a trustee may take into account when exercising a power of investment, a trustee must, so far as they are appropriate to the circumstances of the trust, if any, have regard to the following matters:
 - (a) the purposes of the trust and the needs and circumstances of the beneficiaries,
 - (b) the desirability of diversifying trust investments,
 - (c) the nature of, and the risk associated with, existing trust investments and other trust property,
 - (d) the need to maintain the real value of the capital or income of the trust,
 - (e) the risk of capital or income loss or depreciation,
 - (f) the potential for capital appreciation,
 - (g) the likely income return and the timing of income return,
 - (h) the length of the term of the proposed investment,
 - (i) the probable duration of the trust,
 - (j) the liquidity and marketability of the proposed investment during, and on the determination of, the term of the proposed investment,
 - (k) the aggregate value of the trust estate,
 - (l) the effect of the proposed investment in relation to the tax liability of the trust,
 - (m) the likelihood of inflation affecting the value of the proposed investment or other trust property,
 - (n) the costs (including commissions, fees, charges and duties payable) of making the proposed investment,
 - (o) the results of a review of existing trust investments in accordance with section 14A (4).
- (2) A trustee may, having regard to the size and nature of the trust, do either or both of the following:
 - (a) obtain and consider independent and impartial advice reasonably required for the investment of trust funds or the management of the investment from a person whom the trustee reasonably believes to be competent to give the advice,
 - (b) pay out of trust funds the reasonable costs of obtaining the advice.
- (3) A trustee is to comply with this section unless expressly forbidden by the instrument (if any) creating the trust.

LOCAL GOVERNMENT ACT 1993 – INVESTMENT ORDER

(Relating to investments by councils)

I, the Hon. Barbara Perry MP, Minister for Local Government, in pursuance of section 625(2) of the *Local Government Act 1993* and with the approval of the Treasurer, do, by this my Order, notify for the purposes of section 625 of that Act that a council or county council may only invest money (on the basis that all investments must be denominated in Australian Dollars) in the following forms of investment:

- (a) any public funds or securities issued by or guaranteed by, the Commonwealth, any State of the Commonwealth or a Territory;
- (b) any debentures or securities issued by a council (within the meaning of the *Local Government Act 1993* (NSW));
- (c) interest bearing deposits with, or any debentures or bonds issued by, an authorised deposit-taking institution (as defined in the *Banking Act 1959* (Cwth)), but excluding subordinated debt obligations;
- (d) any bill of exchange which has a maturity date of not more than 200 days; and if purchased for value confers on the holder in due course a right of recourse against a bank which has been designated as an authorised deposit-taking institution by the Australian Prudential Regulation Authority;
- (e) a deposit with the New South Wales Treasury Corporation or investments in an Hour-Glass investment facility of the New South Wales Treasury Corporation;

All investment instruments (excluding short term discount instruments) referred to above include both principal and investment income.

Transitional Arrangements

- (i) Subject to paragraph (ii) nothing in this Order affects any investment made before the date of this Order which was made in compliance with the previous Ministerial Orders, and such investments are taken to be in compliance with this Order.
- (ii) Paragraph (i) only applies to those investments made before the date of this Order and does not apply to any restructuring or switching of investments or any re-investment of proceeds received on disposal or maturity of such investments, which for the avoidance of doubt must comply with this Order.

Key Considerations

An investment is not in a form of investment notified by this order unless it also complies with an investment policy of council adopted by a resolution of council.

All councils should by resolution adopt an investment policy that is consistent with this Order and any guidelines issued by the Chief Executive (Local Government), Department of Premier and Cabinet, from time to time.

The General Manager, or any other staff member, with delegated authority by a council to invest funds on behalf of a council must do so in accordance with the council's adopted investment policy.

Councils have a fiduciary responsibility when investing. Councils should exercise the care, diligence and skill that a prudent person would exercise in managing the affairs of other persons.

When exercising the power of investment councils should consider, but not be limited by, the risk of capital or income loss or depreciation, the likely income return and the timing of income return, the length of the term of the proposed investment, the liquidity and marketability of the proposed investment, the likelihood of inflation affecting the value of the proposed investment and the costs (including commissions, fees, charges and duties payable) of making the proposed investment.

Dated this 12th day of January 2011


Hon BARBARA PERRY MP
Minister for Local Government

Information reports

Responsible Officers: General Manager and Group Managers

Recommendation

That the following information reports be received and noted:

1. Investments - May 2022
2. Water consumption and usage - May 2022
3. Delivery program progress update 1 July 2021 to 31 December 2021
4. Contract for the provision of electricity for Rous County Council operations
5. Reports/actions pending

Background

Copies of the abovementioned reports are attached for information.

Consultation

The reports have been prepared in consultation with the General Manager, relevant Group Managers and staff.

Conclusion

Copies of the reports listed are attached for information.

Attachment

1. Information reports 1-5

Investments - May 2022

Responsible Officer: Group Manager Corporate and Commercial (Guy Bezrouchko)

Recommendation

That Council receive and note the Investments for May 2022.

Background

Clause 212 of the *Local Government (General) Regulation 2021* and Council's 'Investments' policy require that a report detailing Council's investments be provided. This report has been prepared as at 31 May 2022.

Finance

RBA cash rate

At the RBA's May 2022 meeting, it was decided to increase the cash rate to 0.35%. The Board judged that some withdrawal of the government monetary support provided through the pandemic and a start to the process of normalising interest rates was appropriate, given both the progress towards full employment, and household price increases. The 90-day average bank bill swap rate (BBSW) has increased to 0.98%.

Total funds invested as at 31 May 2022 = \$38,826,691

Return for May 2022 = 1.05%

The weighted average return on funds invested for the month of May 2022 was 1.05%. This represents an increase of 35 basis point compared to the March 2022 result (0.70%) and is 7 basis points above Council's benchmark (the average 90-day BBSW rate of 0.98%) (Refer: Graph D2 - Attachment D).

Interest earned for May 2022 = \$29,529

Interest earned compared to the adjusted budget is \$547 above the pro-rata budget (Refer: Attachment A).

Cheque account balance as at 31 May 2022 = \$249,455

Ethical holdings represent 36.06% of the total portfolio

Current holdings in Ethical Financial Institutions equals \$14,000,000. The assessment of Ethical Financial Institutions is undertaken using www.marketforces.org.au which is an affiliate project of the Friends of the Earth Australia (Refer: Graph D4 - Attachment D).

Legal

All investments are in accordance with section 625 of the *Local Government Act 1993*, clause 212 of the *Local Government (General) Regulation 2021* and Council's 'Investments' policy.

Conclusion

A report on investments is required to be submitted to Council. As at 31 May 2022, investments total \$38,826,691 and the average rate of return is estimated at 1.05%.

Attachments

- A. Investment analysis
- B. Investment by type
- C. Investment by Institution
- D. Total funds invested - comparisons
- E. Summary of indebtedness

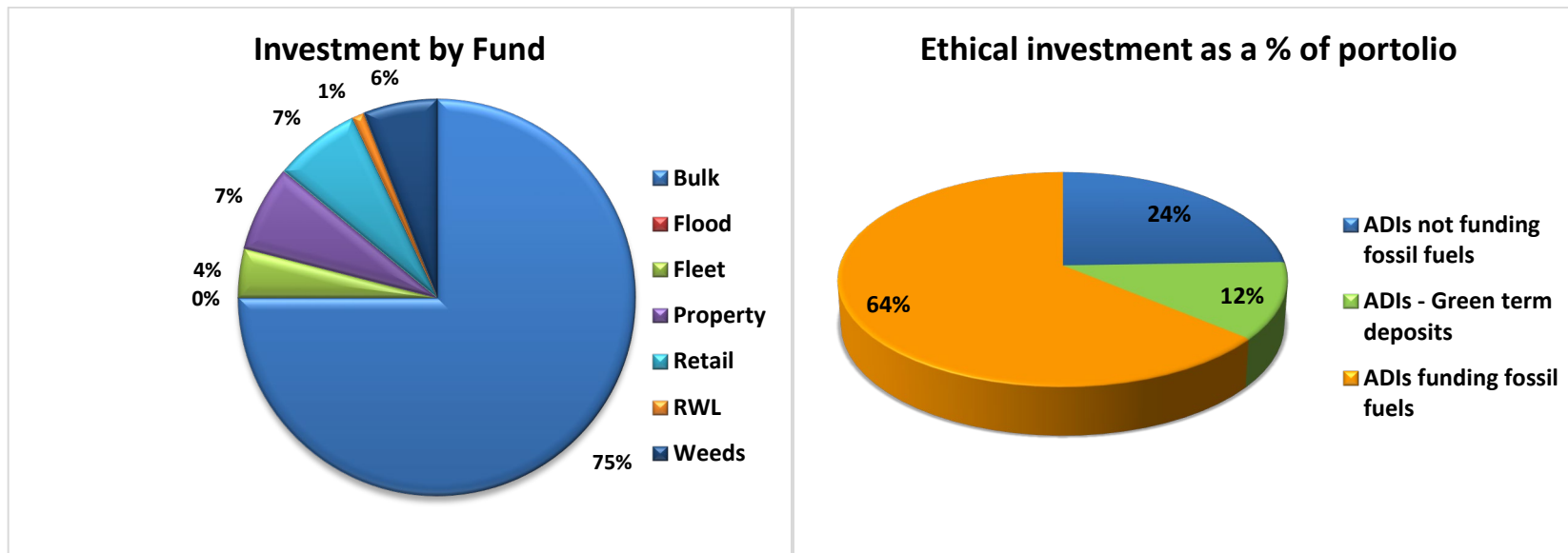
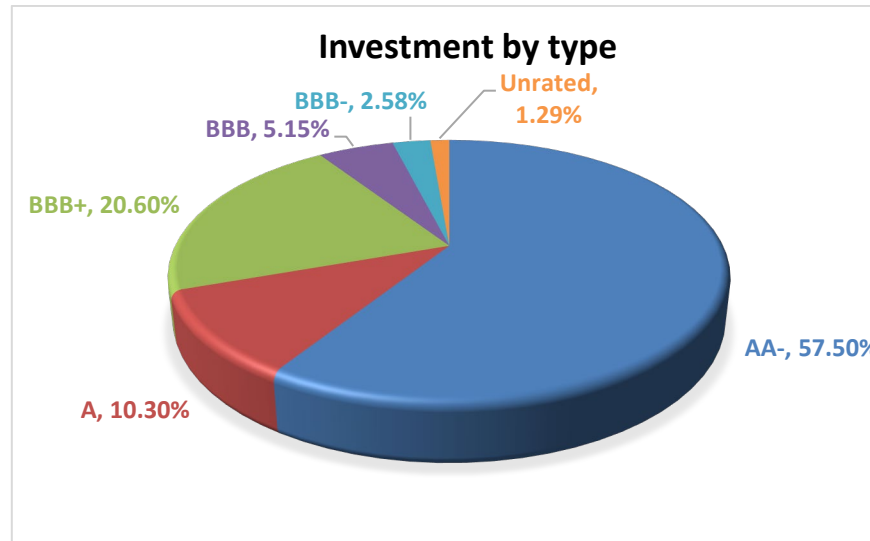
Investment analysis report 31 May 2022

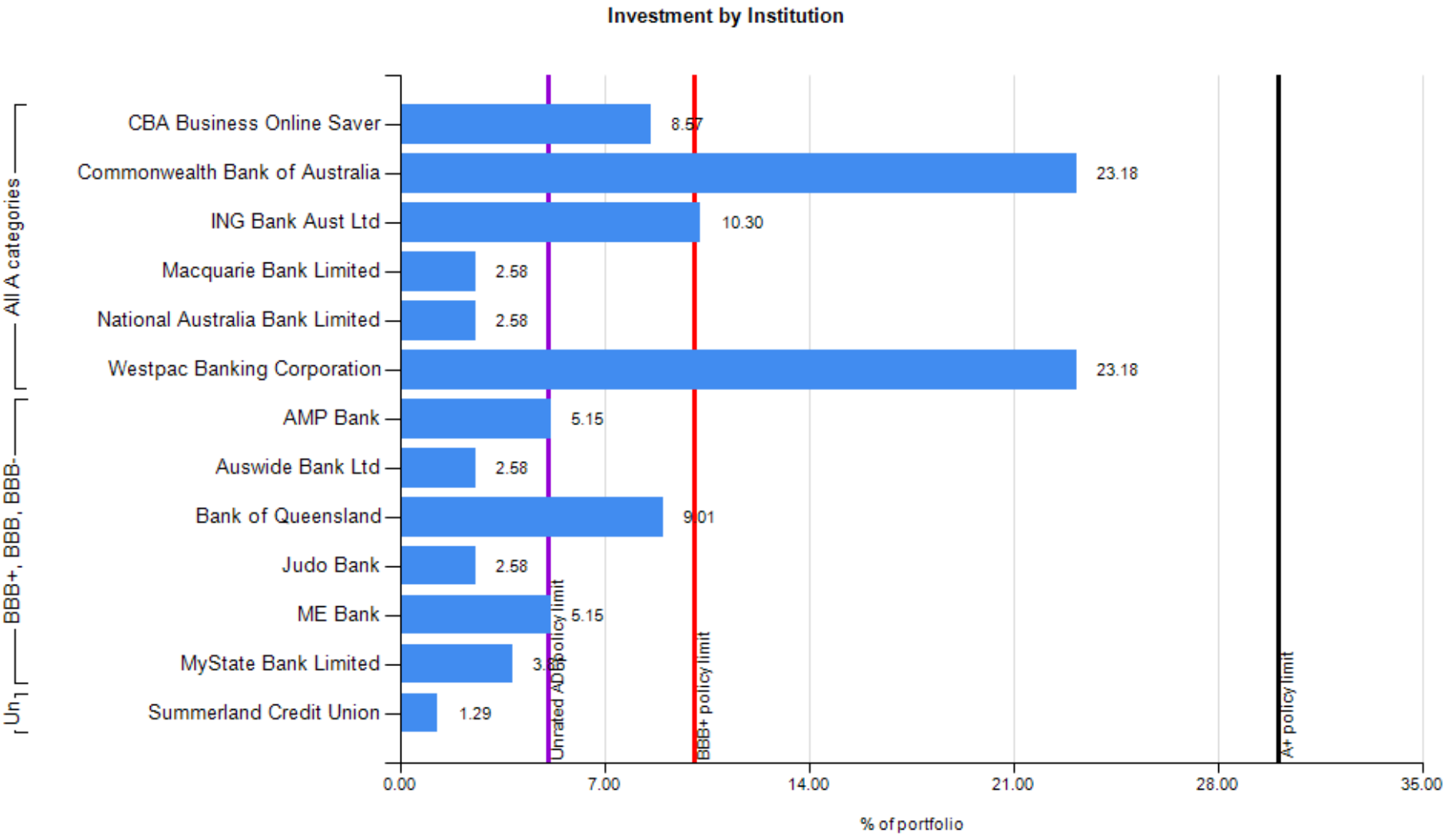
Attachment A

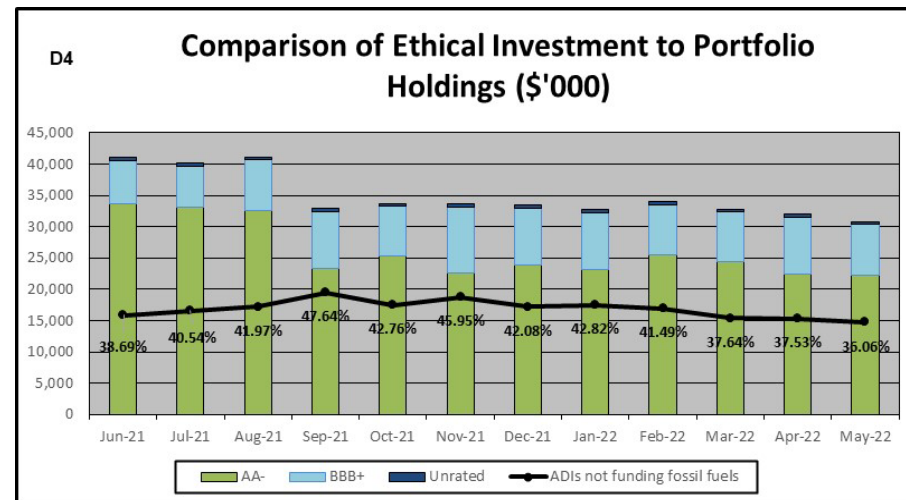
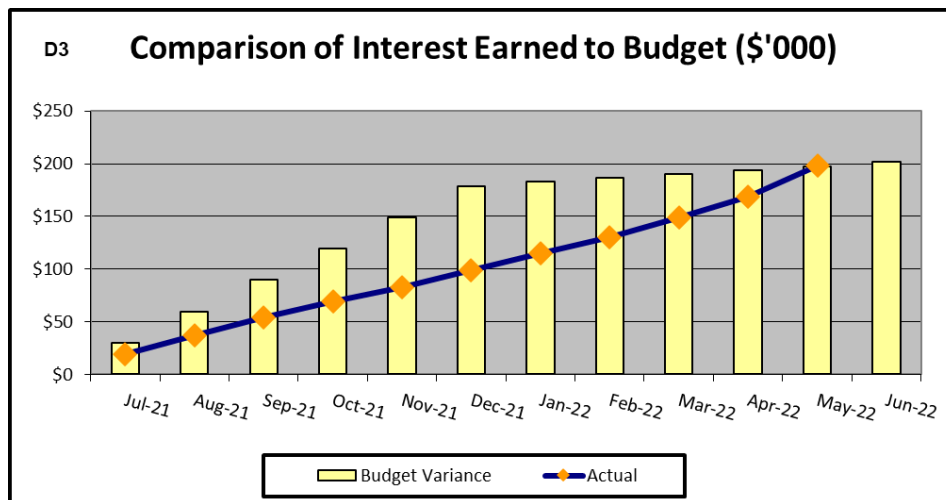
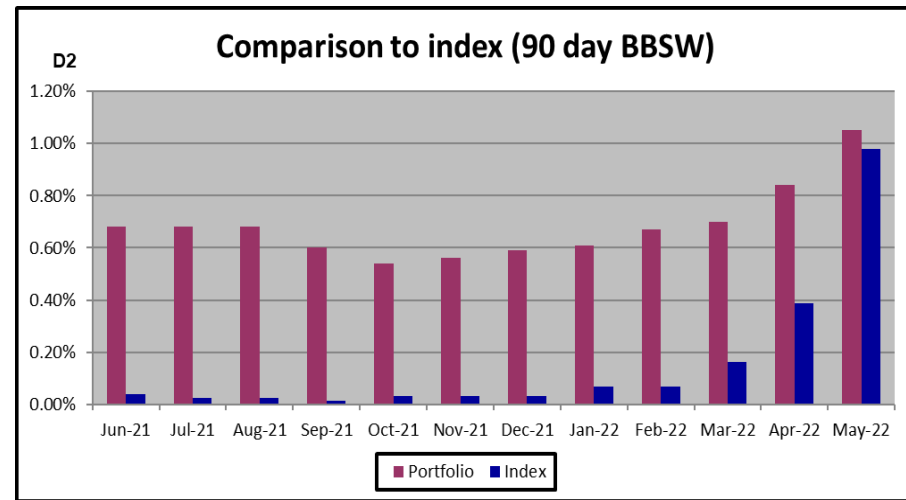
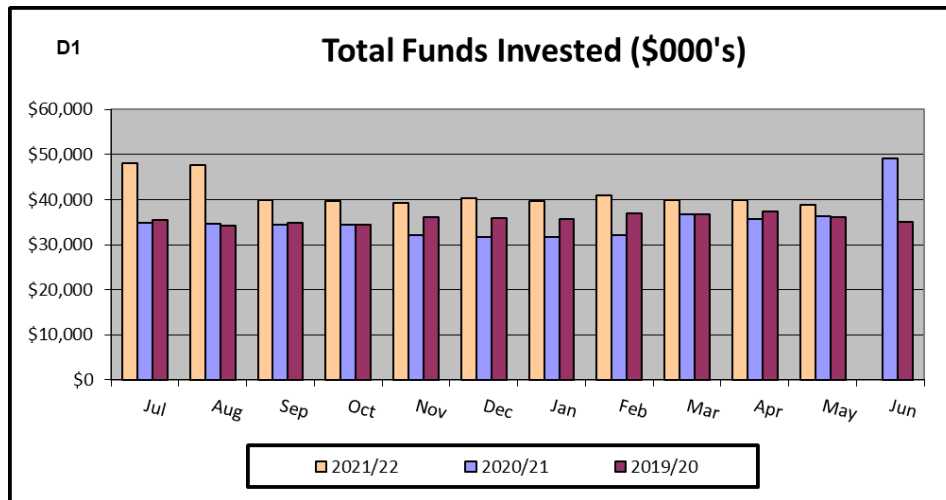
Funds Invested With	S & P Local Long Term Rating	Product Name	Ethical ADIs	Lodgement Date	Maturity Date	% of Portfolio	31 May 22 Balance	Rate of Return	Monthly Interest	Year-to-Date Interest
CBA Business Online Saver	AA-	CBA-BOS	No	At call		8.57	3,326,690.80	1.20	1,253.94	12,747.70
Bank of Queensland	BBB+	TD	Yes	20/10/2020	18/10/2022	1.29	500,000.00	0.80	339.73	3,671.23
Commonwealth Bank of Australia	AA-	TD	No	11/6/2021	14/6/2022	2.58	1,000,000.00	0.45	382.19	4,130.14
Commonwealth Bank of Australia	AA-	TD	No	11/6/2021	28/6/2022	2.58	1,000,000.00	0.46	390.68	4,221.92
ING Bank Aust Ltd	A	TD	No	17/6/2021	21/6/2022	2.58	1,000,000.00	0.40	339.73	3,671.23
Commonwealth Bank of Australia	AA-	TD	N/A	6/7/2021	5/7/2022	2.58	1,000,000.00	0.41	348.22	3,706.85
Bank of Queensland	BBB+	TD	Yes	24/8/2021	23/8/2022	1.29	500,000.00	0.45	191.10	1,732.19
Bank of Queensland	BBB+	TD	Yes	31/8/2021	2/8/2022	1.29	500,000.00	0.43	182.60	1,613.97
AMP Bank	BBB	TD	No	14/9/2021	13/9/2022	1.29	500,000.00	0.45	191.10	1,602.74
ME Bank	BBB+	TD	No	21/9/2021	20/9/2022	2.58	1,000,000.00	0.40	339.73	2,772.60
MyState Bank Limited	BBB+	TD	Yes	28/9/2021	27/9/2022	1.29	500,000.00	0.45	191.10	1,516.44
Commonwealth Bank of Australia	AA-	TD	No	5/10/2021	4/10/2022	2.58	1,000,000.00	0.36	305.75	2,357.26
Westpac Banking Corporation	AA-	TD	No	12/10/2021	11/10/2022	1.29	500,000.00	0.40	169.86	1,271.23
Westpac Banking Corporation	AA-	TD	N/A	19/10/2021	18/10/2022	2.58	1,000,000.00	0.46	390.68	2,835.62
Westpac Banking Corporation	AA-	TD	No	26/10/2021	25/10/2022	1.29	500,000.00	0.49	208.08	1,463.29
Judo Bank	BBB-	TD	Yes	2/11/2021	1/11/2022	1.29	500,000.00	1.01	428.90	2,919.32
Summerland Credit Union	UNRATED	TD	Yes	9/11/2021	6/12/2022	1.29	500,000.00	0.65	276.03	1,816.44
AMP Bank	BBB	TD	No	16/11/2021	8/11/2022	1.29	500,000.00	1.00	424.66	2,698.63
AMP Bank	BBB	TD	No	16/11/2021	15/11/2022	1.29	500,000.00	1.00	424.66	2,698.63
ME Bank	BBB+	TD	No	23/11/2021	22/11/2022	2.58	1,000,000.00	0.65	552.05	3,383.56
Auswide Bank Ltd	BBB+	TD	Yes	30/11/2021	29/11/2022	2.58	1,000,000.00	0.80	679.45	4,010.96
Judo Bank	BBB-	TD	Yes	30/11/2021	22/11/2022	1.29	500,000.00	1.10	467.12	2,757.53
AMP Bank	BBB	TD	No	30/11/2021	29/11/2022	1.29	500,000.00	1.00	424.66	2,506.85
Westpac Banking Corporation	AA-	TD	No	7/12/2021	6/12/2022	2.58	1,000,000.00	0.58	492.60	2,796.71
ING Bank Aust Ltd	A	TD	No	7/12/2021	13/12/2022	2.58	1,000,000.00	0.60	509.59	2,893.15
Westpac Banking Corporation	AA-	TD	No	4/1/2022	4/1/2023	1.29	500,000.00	0.68	288.77	1,378.63
National Australia Bank Limited	AA-	TD	No	11/1/2022	10/1/2023	2.58	1,000,000.00	0.65	552.05	2,510.96
Commonwealth Bank of Australia	AA-	TD	N/A	18/1/2022	18/1/2023	2.58	1,000,000.00	0.50	424.66	1,835.62
Commonwealth Bank of Australia	AA-	TD	N/A	8/2/2022	8/8/2022	2.58	1,000,000.00	0.40	339.73	1,238.36

Funds Invested With	S & P Local Long Term Rating	Product Name	Ethical ADIs	Lodgement Date	Maturity Date	% of Portfolio	31 May 22 Balance	Rate of Return	Monthly Interest	Year-to-Date Interest
Westpac Banking Corporation	AA-	TD	No	16/2/2022	16/2/2023	2.58	1,000,000.00	0.95	806.85	2,732.88
Westpac Banking Corporation	AA-	TD	Yes	22/2/2022	22/2/2023	2.58	1,000,000.00	0.88	747.40	2,386.85
Westpac Banking Corporation	AA-	TD	Yes	23/2/2022	7/3/2023	2.58	1,000,000.00	0.94	798.36	2,523.84
Westpac Banking Corporation	AA-	TD	Yes	23/2/2022	14/3/2023	2.58	1,000,000.00	0.94	798.36	2,523.84
Westpac Banking Corporation	AA-	TD	N/A	23/2/2022	28/3/2023	1.29	500,000.00	0.94	399.18	1,261.92
ING Bank Aust Ltd	A	TD	No	1/3/2022	28/2/2023	2.58	1,000,000.00	0.80	679.45	2,016.44
Westpac Banking Corporation	AA-	TD	No	8/3/2022	8/3/2023	2.58	1,000,000.00	1.00	849.32	2,328.77
Macquarie Bank Limited	A+	TD	No	23/3/2022	20/9/2022	2.58	1,000,000.00	0.85	721.92	1,630.14
ING Bank Aust Ltd	A	TD	No	5/4/2022	4/4/2023	2.58	1,000,000.00	1.68	1,426.85	2,623.56
Bank of Queensland	BBB+	TD	Yes	19/4/2022	19/4/2023	2.58	1,000,000.00	1.90	1,613.70	2,238.36
MyState Bank Limited	BBB+	TD	No	29/4/2022	2/5/2023	2.58	1,000,000.00	2.60	2,208.22	2,350.68
Commonwealth Bank of Australia	AA-	TD	No	29/4/2022	2/5/2023	2.58	1,000,000.00	2.72	2,310.14	2,459.18
Commonwealth Bank of Australia	AA-	TD	No	3/5/2022	2/5/2023	2.58	1,000,000.00	2.74	2,176.99	2,176.99
Commonwealth Bank of Australia	AA-	TD	No	10/5/2022	10/5/2023	2.58	1,000,000.00	3.01	1,814.25	1,814.25
Bank Of Queensland	BBB+	TD	Yes	31/5/2022	6/6/2023	2.58	1,000,000.00	3.20	0.00	0.00
MATURED TDs									668.49	82,469.45
						100.00	38,826,690.80	1.05	29,528.87	198,296.88

Total Investment Holdings**100.00 38,826,690.80****29,528.87 198,296.88**Total YTD Interest **198,296.88**Budget Interest @ 31 May 2022 **197,750.00**Budget Variance **546.88**







Summary of indebtedness as at 31 May 2022

Information	Loan #1	Loan #2	Loan #3	Loan #4	Loan #5	Loan #6	Loan #7	Total
Institution	CBA	CBA	CBA	Dexia	NAB	NAB	Tcorp	
Principal Borrowed	\$ 2,000,000	\$ 3,000,000	\$ 10,000,000	\$ 10,000,000	\$ 10,000,000	\$ 10,000,000	\$ 13,500,000	\$ 58,500,000
Date Obtained	9-Jun-04	31-May-05	31-May-06	21-Feb-07	31-May-07	25-Sep-07	7-Jun-21	
Term (Years)	20	20	20	20	20	20	20	
Interest Rate	6.82%	6.25%	6.37%	6.40%	6.74%	6.85%	2.68%	
Date Due	10-Jun-24	31-May-25	31-May-26	21-Feb-27	31-May-27	25-Sep-27	7-Jun-41	
Annual Commitment	\$ 184,785	\$ 264,921	\$ 891,595	\$ 893,507	\$ 917,390	\$ 925,933	\$ 876,390	\$ 4,954,520
Principal Repaid LTD	\$ 1,659,984	\$ 2,285,450	\$ 6,894,998	\$ 6,226,708	\$ 6,145,783	\$ 5,809,053	\$ 518,038	\$ 29,540,012
Interest Incurred LTD	\$ 1,651,927	\$ 2,218,202	\$ 7,370,525	\$ 7,178,162	\$ 7,615,062	\$ 7,616,970	\$ 180,900	\$ 33,831,747
Principal Outstanding	\$ 418,188	\$ 714,550	\$ 3,105,002	\$ 3,773,292	\$ 3,854,217	\$ 4,190,948	\$ 13,242,705	\$ 29,298,902
Interest Outstanding	\$ 43,775	\$ 80,212	\$ 461,378	\$ 694,998	\$ 753,428	\$ 913,572	\$ 3,846,904	\$ 6,794,267

Water consumption and usage – May 2022

Responsible Officer: Group Manager Operations (Adam Nesbitt)

Recommendation

That Council receive and note the report.

Background

The table below is the May 2022 bulk water sales to the constituent councils in kilolitres compared to the corresponding May sales for 2021 and 2020.

Council	May 2020 (kL)	May 2021 (kL)	May 2022 (kL)	% of Total Sales
Ballina Shire Council	271,394	297,070	284,140	39.09%
Byron Shire Council	168,707	187,394	171,100	23.54%
Lismore City Council	240,329	241,395	232,026	31.92%
Richmond Valley Council	42,270	44,392	39,627	5.45%
TOTAL MONTHLY CONSUMPTION BY CONSTITUENT COUNCILS	722,700	770,251	726,893	

Water usage - all constituent councils

Figure 1 shows the combined monthly bulk water consumption and rainfall at Rocky Creek Dam for the previous two years.

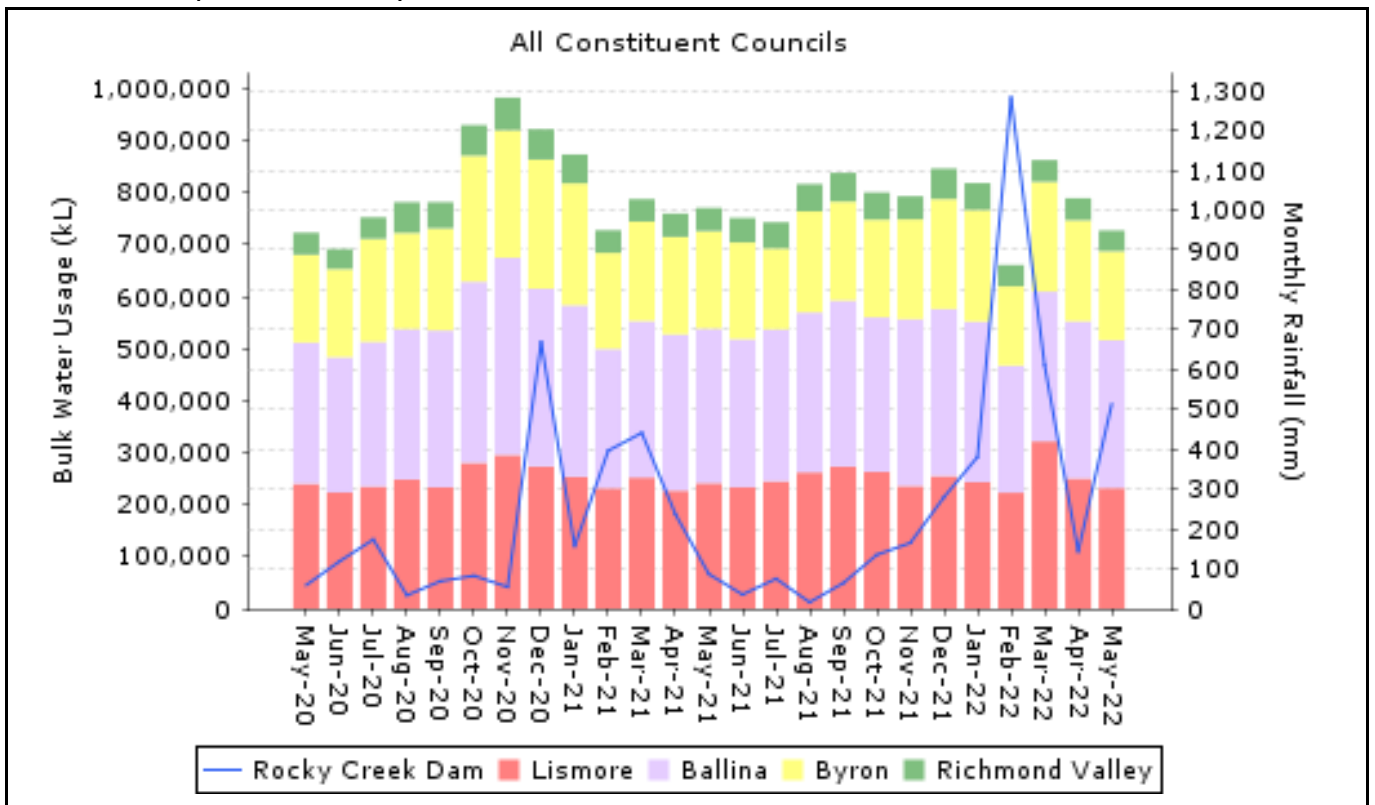


Figure 1: Total monthly consumption by constituent council and rainfall.

Figure 2 shows the total bulk water sales for the financial year to date compared with the previous two years.

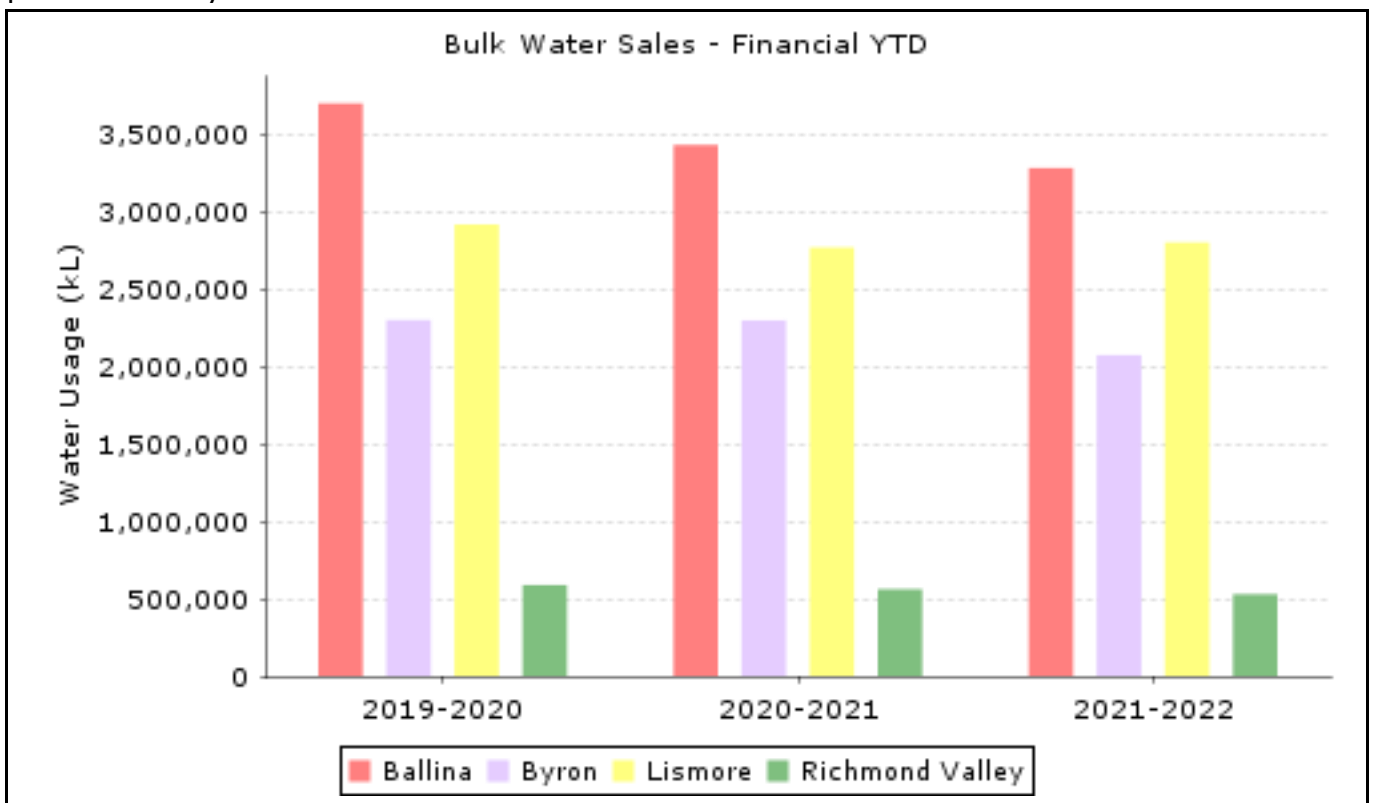


Figure 2: Bulk water sales by constituent council - 1 July to 31 May

Figure 3 and 4 shows the total usage of individual commercial water fill stations for the financial year to date compared with the previous two years.

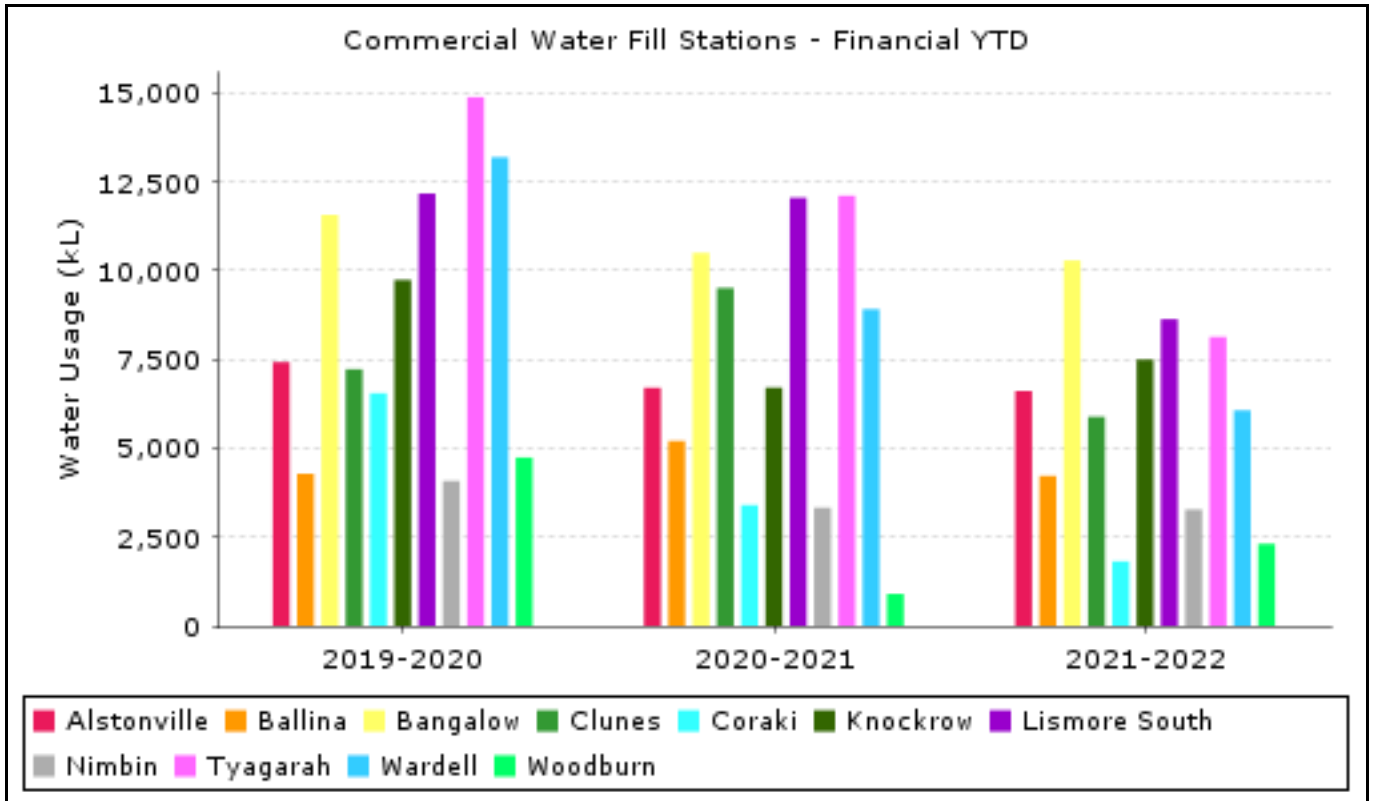


Figure 3: Comparison of commercial water fill stations total consumption - 1 July to 31 May

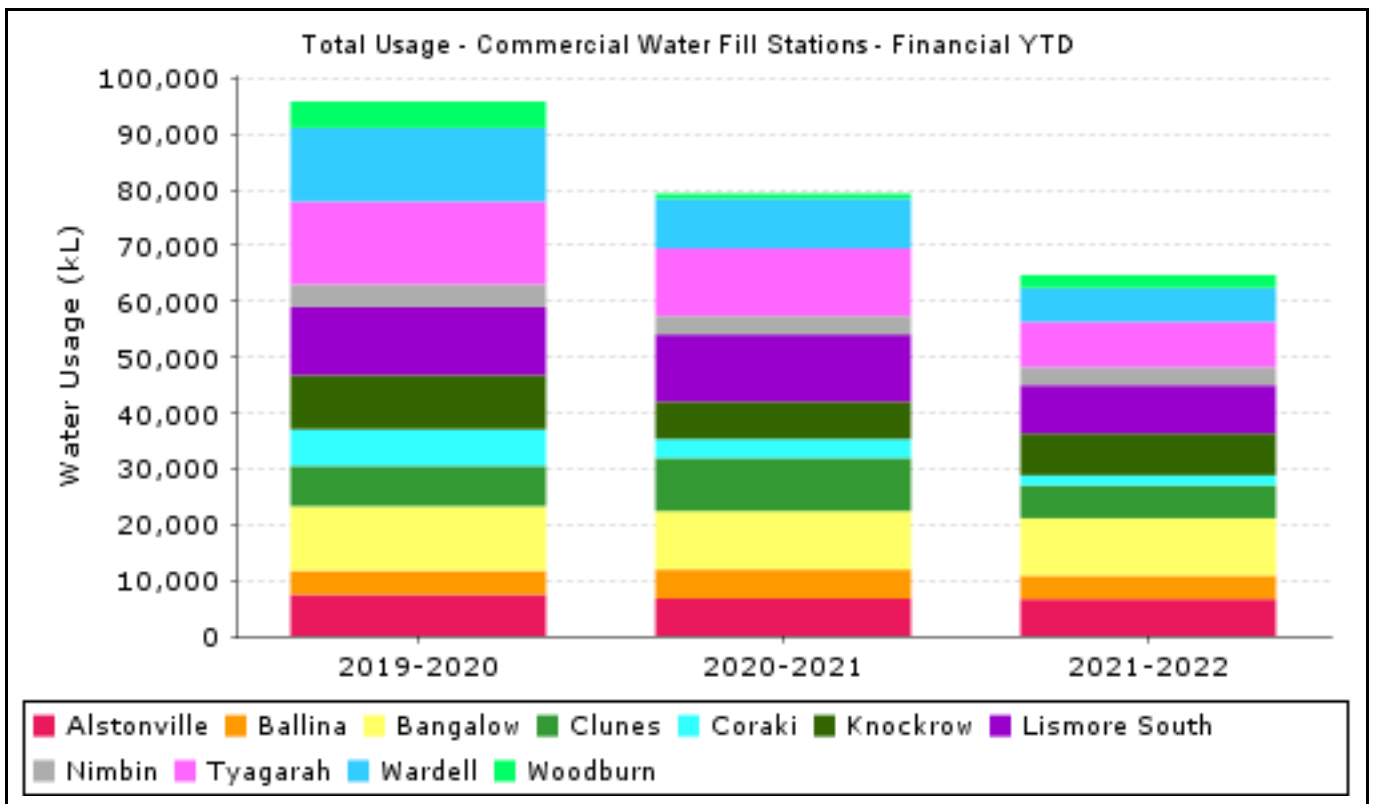


Figure 4: Total usage of commercial water fill stations - 1 July to 31 May

Figure 5 shows the combined water fill station monthly consumption for the previous two years. Rainfall data is from the rain gauge at Rocky Creek Dam.

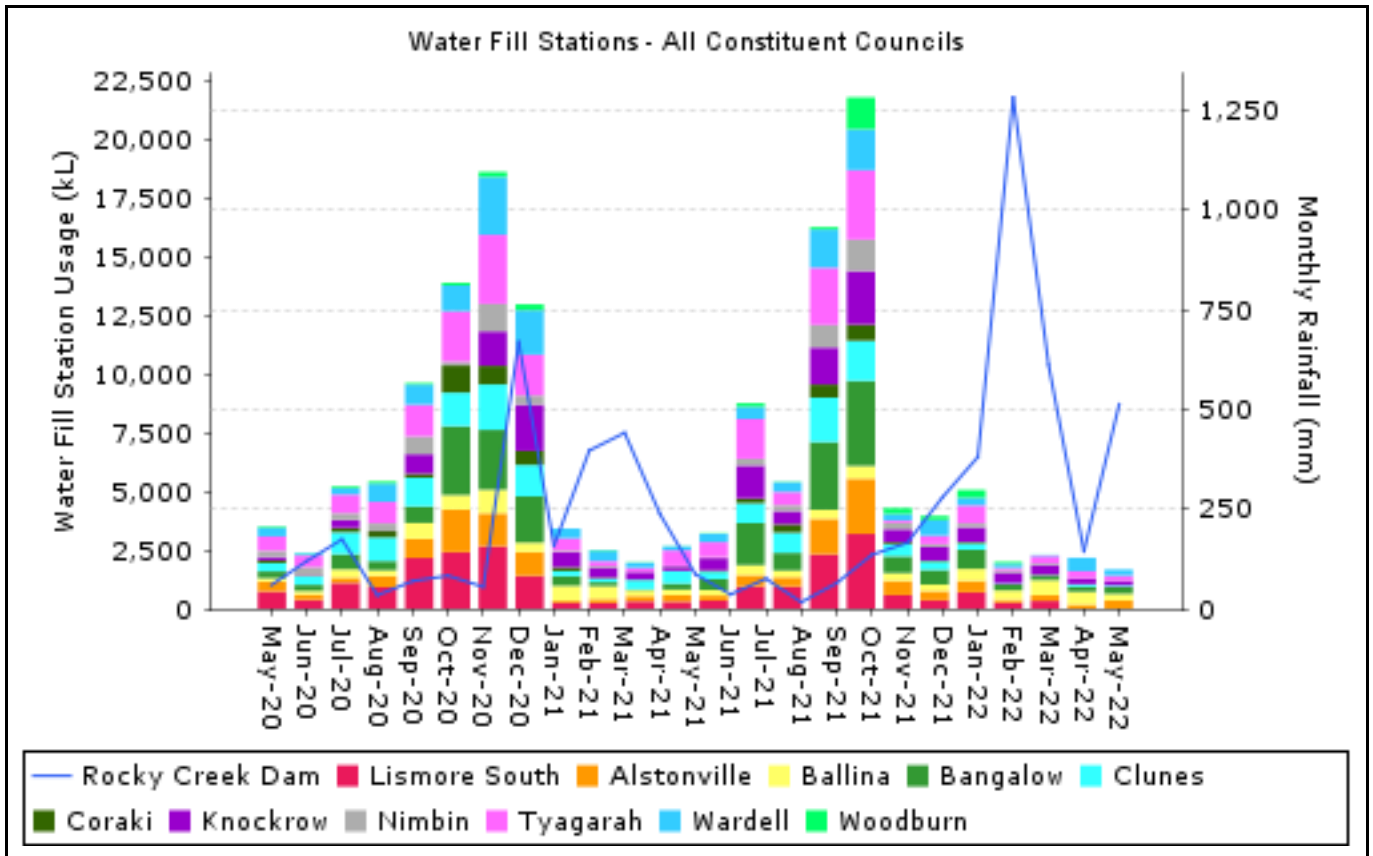


Figure 5: Total monthly consumption for commercial water fill stations and rainfall.

Source contribution

Rocky Creek Dam capacity as of 31 May 2022 was 100.9%

Emigrant Creek Dam capacity as of 31 May 2022 was 103.4%

Source	May 2022 (kL)		Cumulative total 2021-2022 (kL)	
	Usage	Capacity %	Total	Capacity %
Rocky Creek Dam	844,584	100.00%	8,282,463	83.97%
Wilson River	1	0.00%	1,042,559	10.57%
Emigrant Creek Dam	2	0.00%	538,053	5.46%
Alstonville Plateau Bores	0	0.00%	167	0.00%
Coastal Sands	0	0.00%	0	0.00%
	844,587		9,863,242	

Rocky Creek Dam

Figure 6 shows Rocky Creek dam current water level and compares to previous years when levels reached lowest recorded dam level. Rainfall data is for the current financial year only.

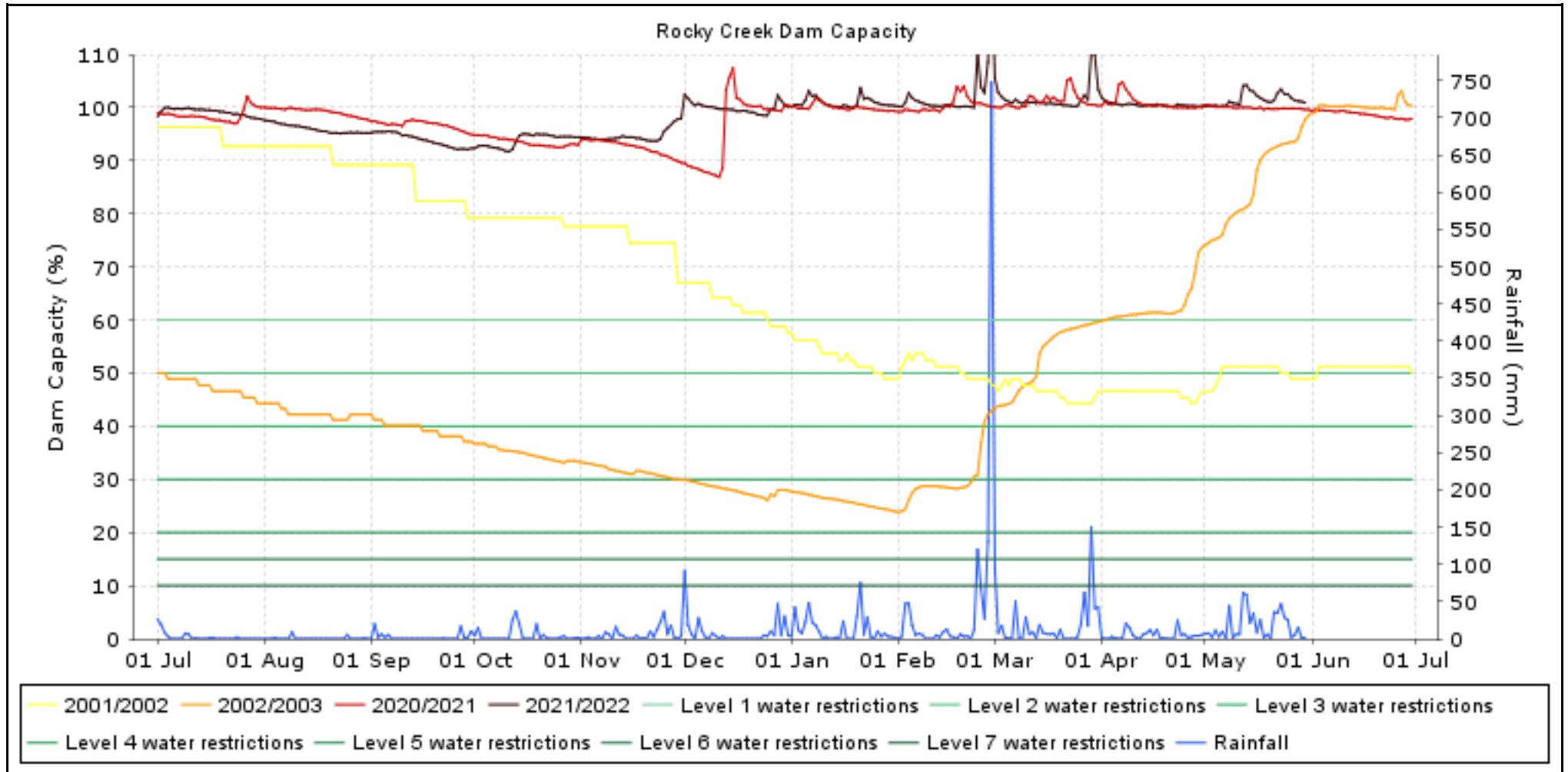


Figure 6: Rocky Creek Dam capacity and rainfall

Emigrant Creek Dam

Figure 7 shows Emigrant Creek dam current water level and compares to previous two years. Rainfall data is for the current financial year only.

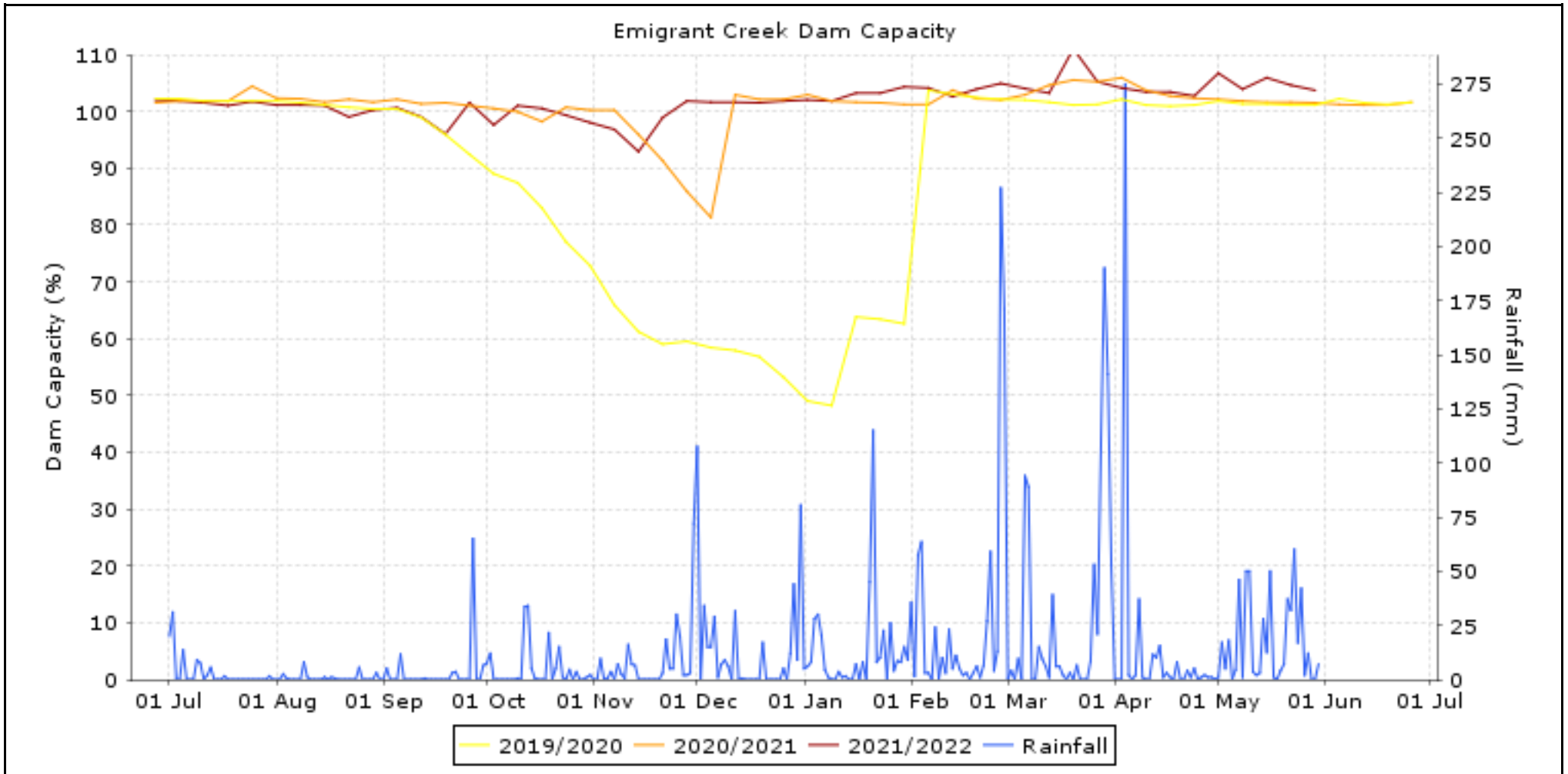


Figure 7: Emigrant Creek Dam capacity and rainfall

Monthly consumption by constituents - Ballina Council

Figure 8 shows the monthly consumption for Ballina Shire Council area for the previous two years. Rainfall data is from the Bureau of Meteorology rainfall station Ballina Airport.

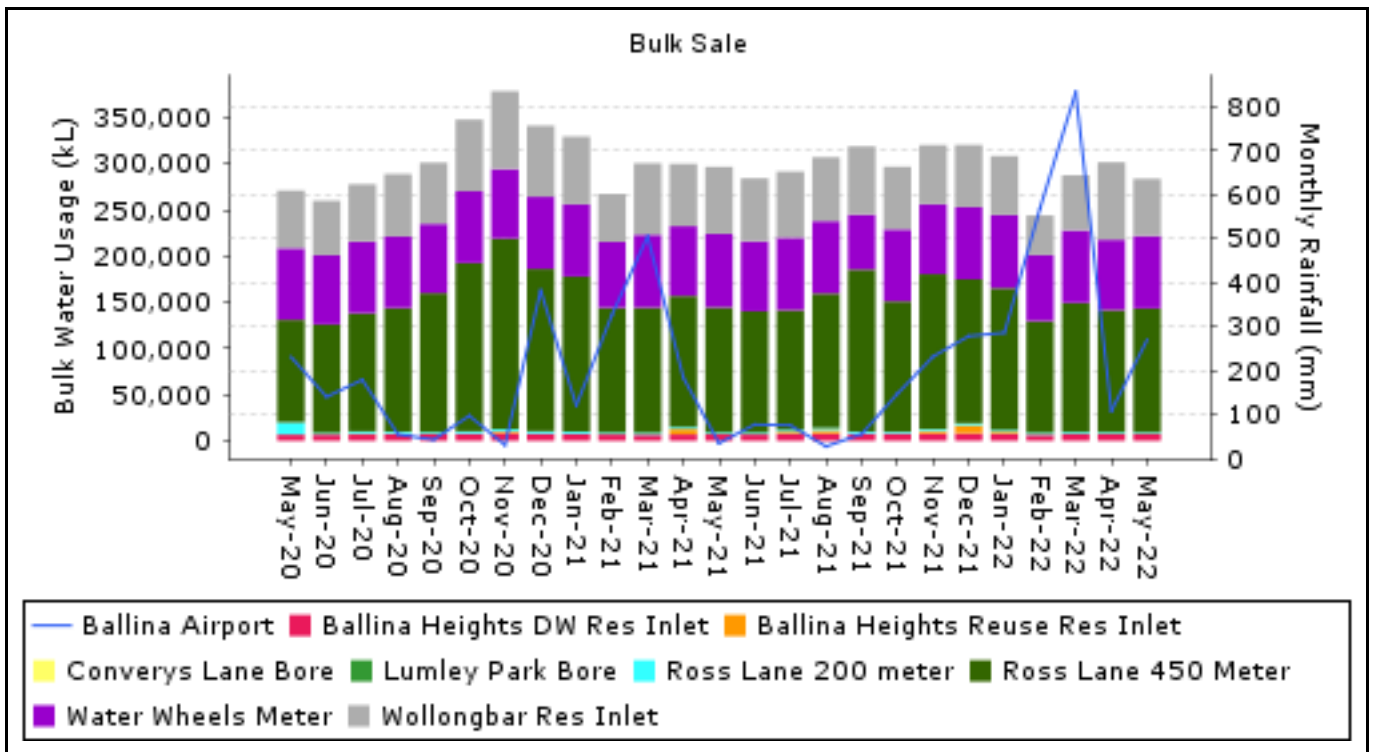


Figure 8: Monthly consumption and rainfall - Ballina City Council.

Figure 9 shows the monthly consumption for water fill stations for Ballina Shire Council and the rainfall for the previous two years.

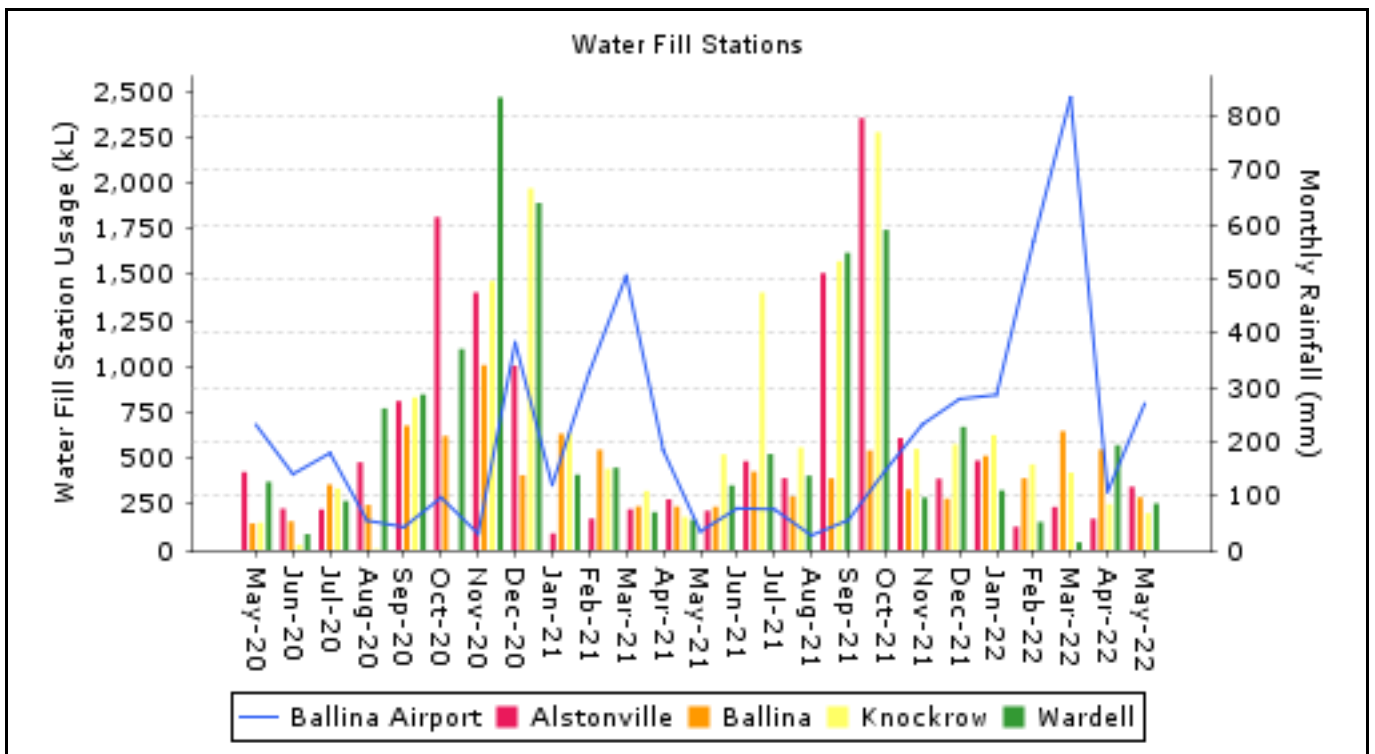


Figure 9: Monthly consumption commercial water fill station and rainfall.

Figure 10 shows the total usage of individual commercial water fill stations for the financial year to date compared with the previous two years.

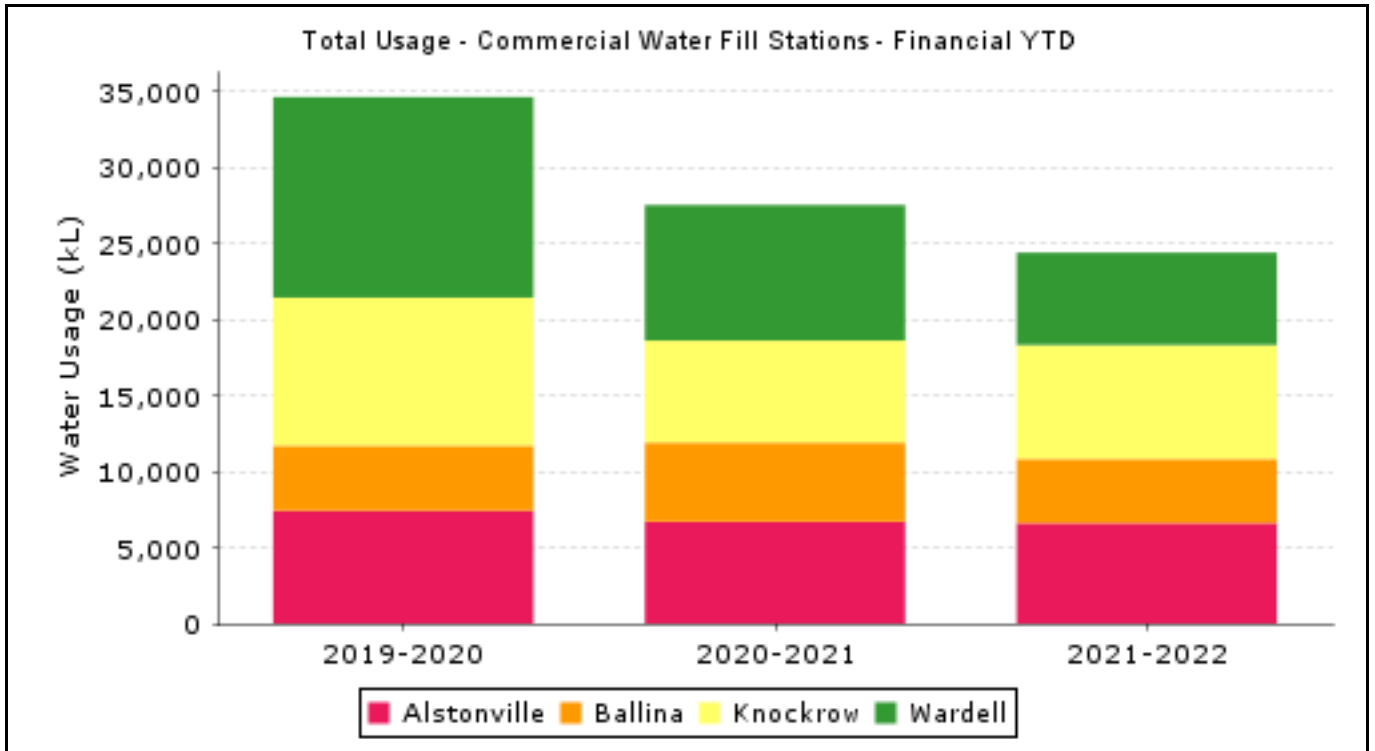


Figure 10: Total usage of commercial water fill stations. 1 July to 31 May

Monthly consumption by constituents - Byron Council

Figure 11 shows the monthly consumption for Byron Shire Council area for the previous two years. Rainfall data is from the Bureau of Meteorology rainfall station Cape Byron.

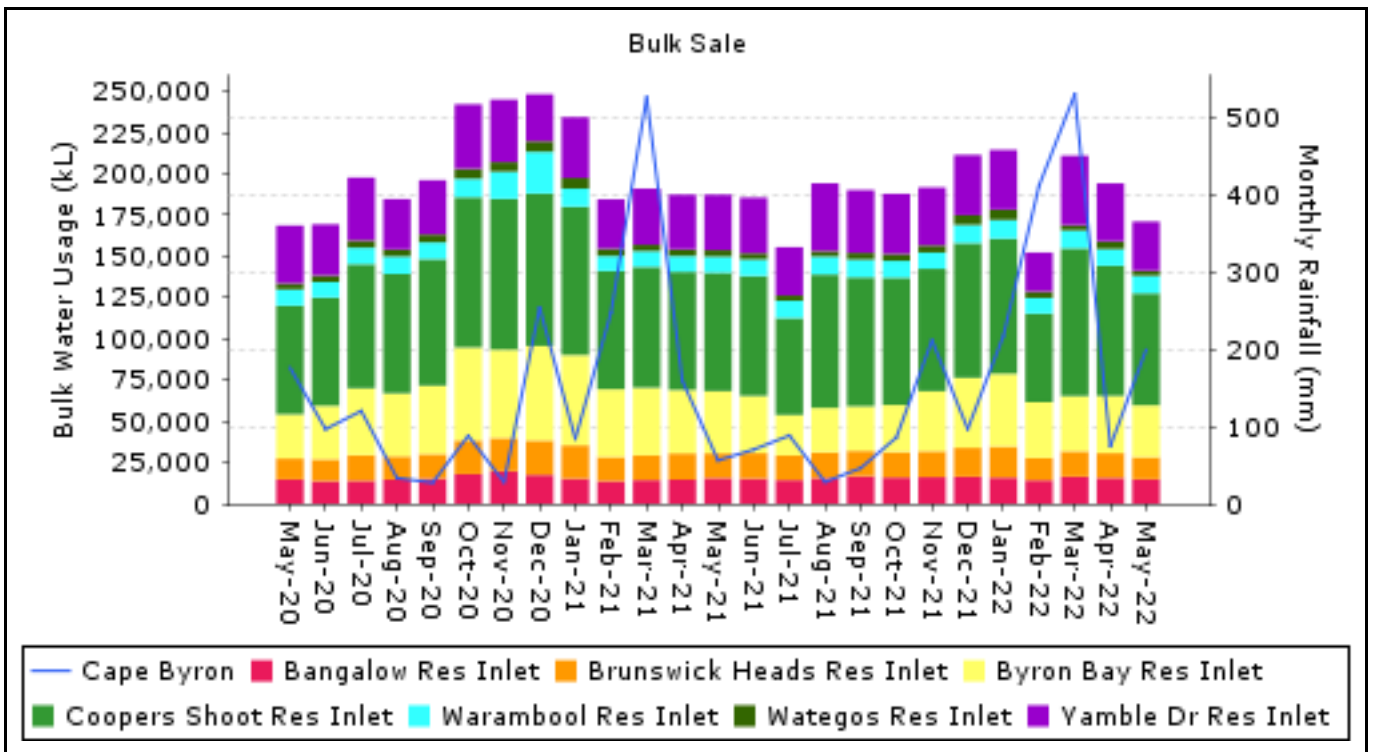


Figure 11: Monthly consumption and rainfall - Byron City Council.

Figure 12 shows the monthly consumption for water fill stations for Byron Shire Council and the rainfall for the previous two years.

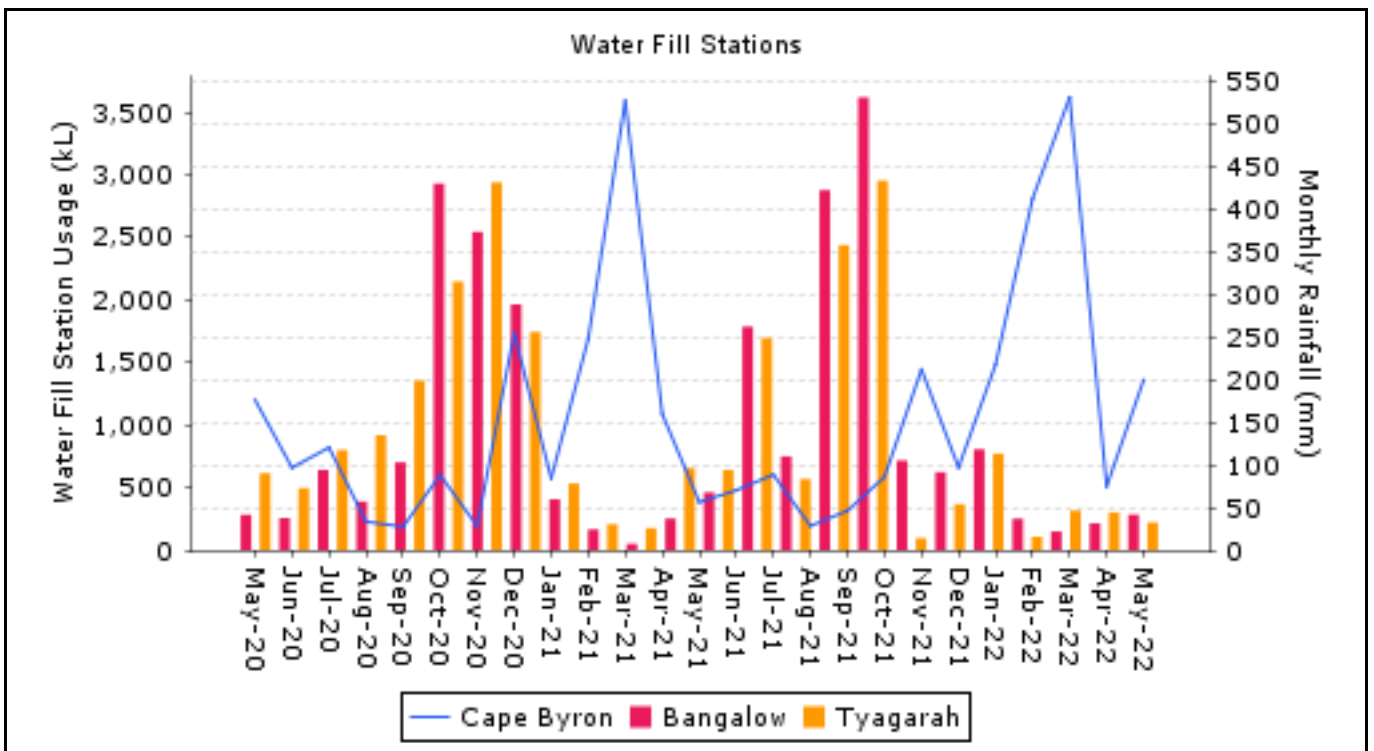


Figure 12: Monthly consumption commercial water fill station and rainfall.

Figure 13 shows the total usage of individual commercial water fill stations for the financial year to date compared with the previous two years.

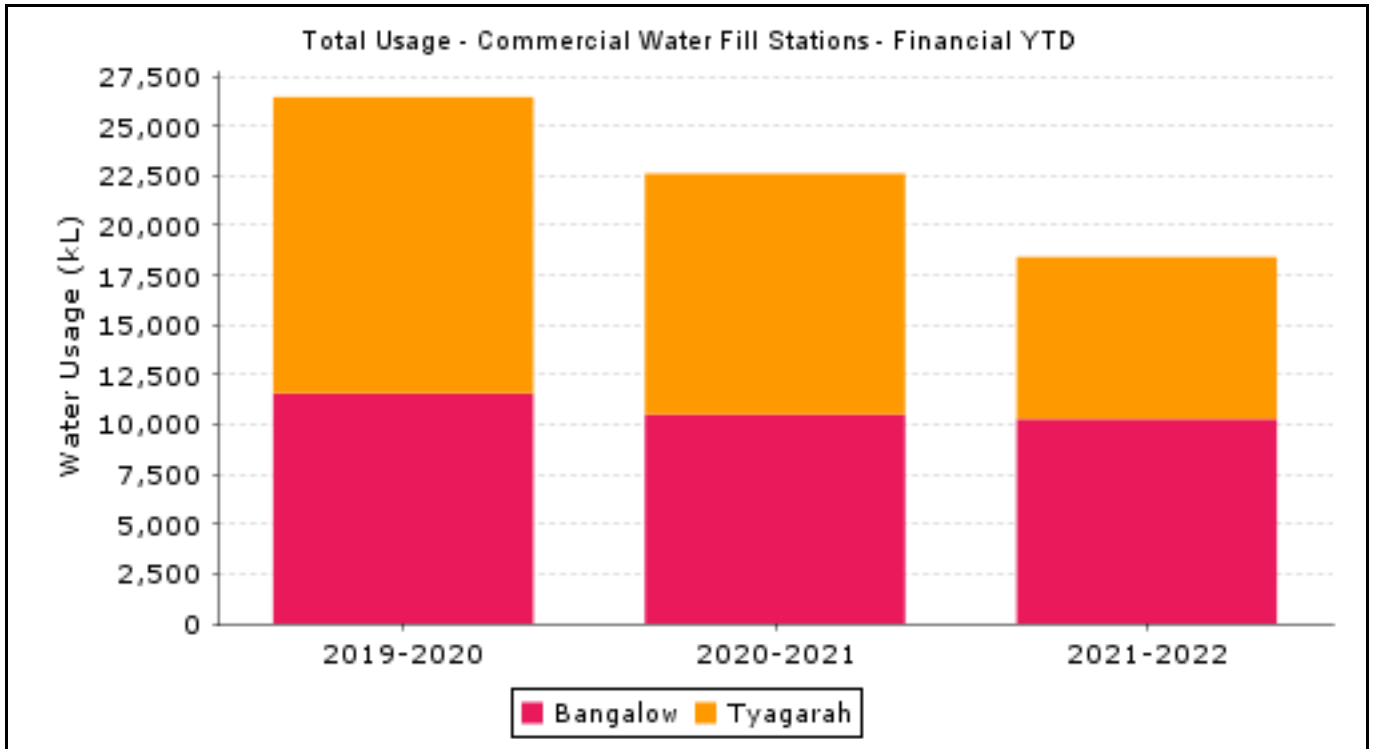


Figure 13: Total usage of commercial water fill stations. 1 July to 31 May

Monthly consumption by constituents - Lismore Council

Figure 14 shows the monthly consumption for Lismore City Council area for the previous two years. Rainfall data is from the Bureau of Meteorology rainfall station Lismore Airport.

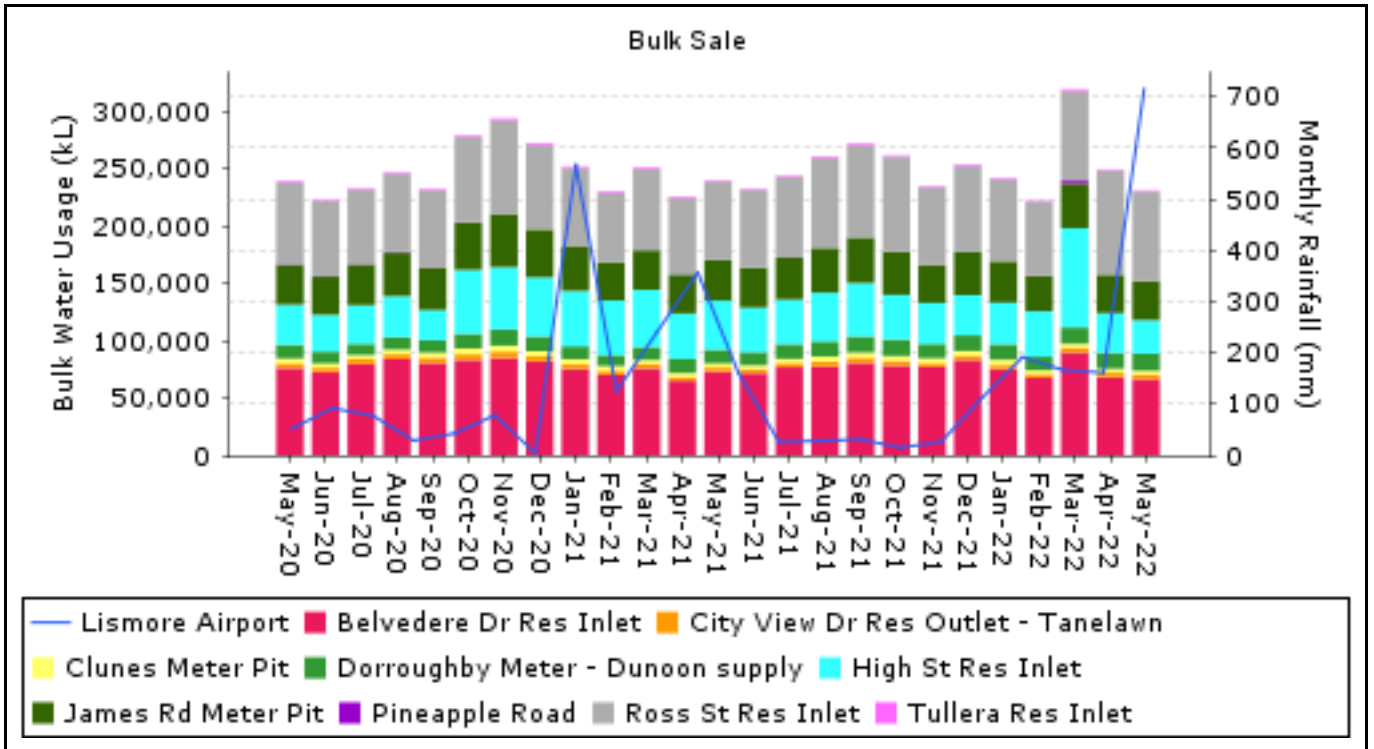


Figure 14: Monthly consumption and rainfall - Lismore City Council.

Figure 15 shows the monthly consumption for water fill stations for Lismore City Council and the rainfall for the previous two years.

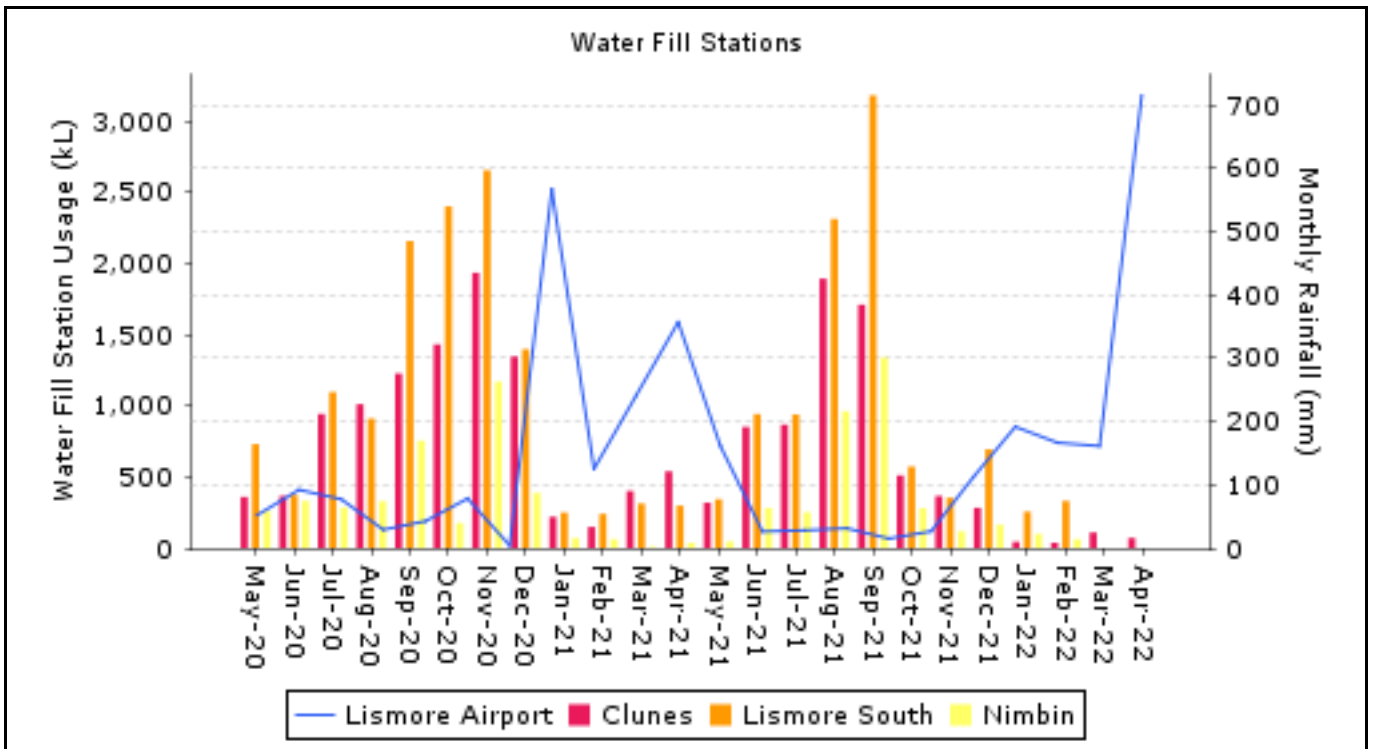


Figure 15: Monthly consumption commercial water fill station and rainfall.

Figure 16 shows the total usage of individual commercial water fill stations for the financial year to date compared with the previous two years.

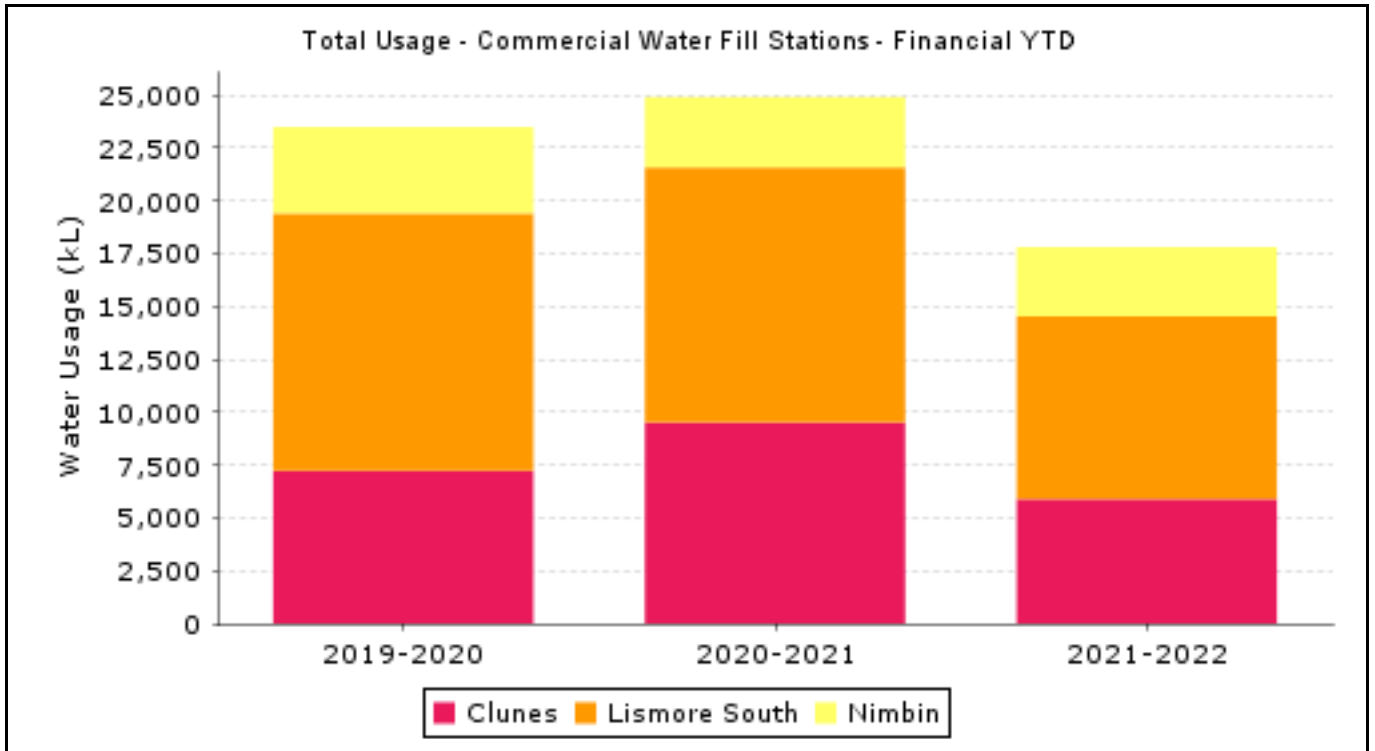


Figure 16: Total usage of commercial water fill stations. 1 July to 31 May

Monthly consumption by constituents - Richmond Valley Council

Figure 17 shows the monthly consumption for Richmond Valley Council area for the previous two years. Rainfall data is from the Bureau of Meteorology rainfall station Evans Head.

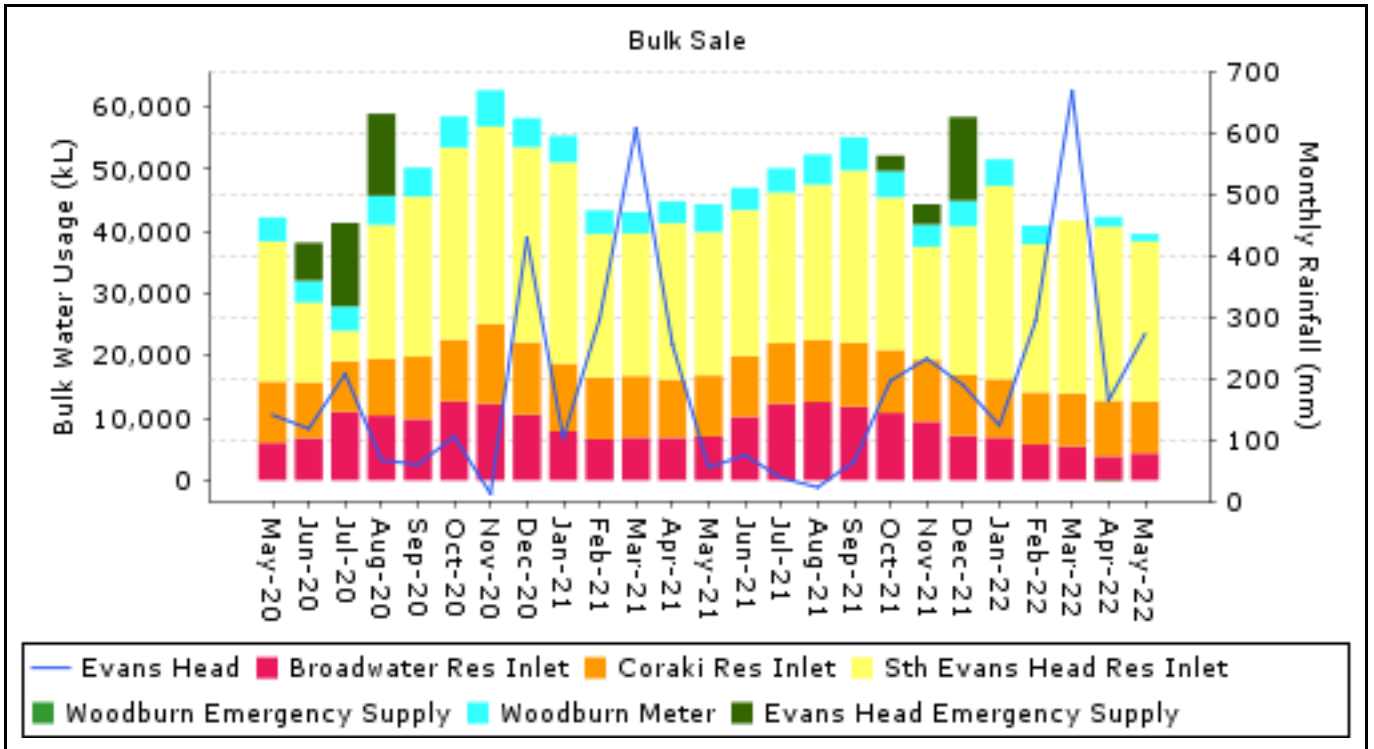


Figure 17: Monthly consumption and rainfall - Richmond Valley City Council.

Figure 18 shows the monthly consumption for water fill stations for Richmond Valley Council and the rainfall for the previous two years.

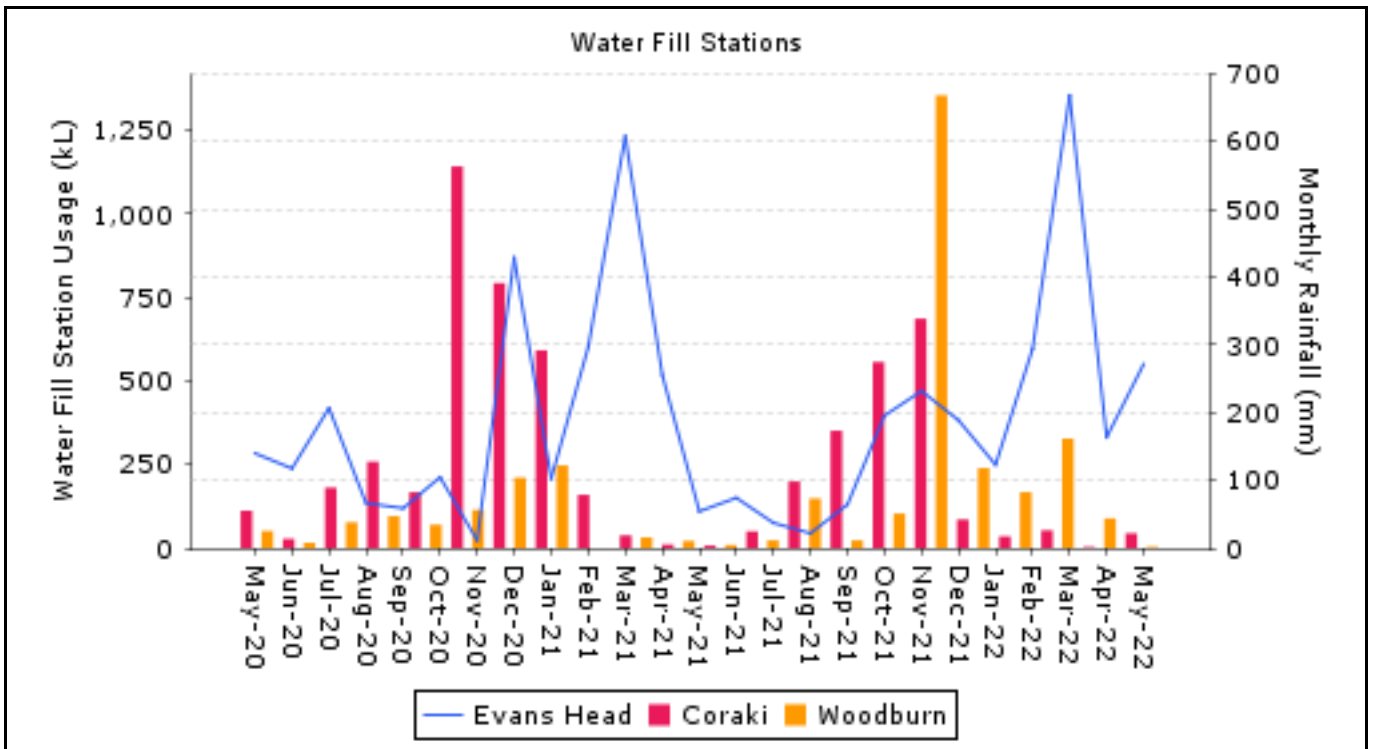


Figure 18: Monthly consumption commercial water fill station and rainfall.

Figure 19 shows the total usage of individual commercial water fill stations for the financial year to date compared with the previous two years.

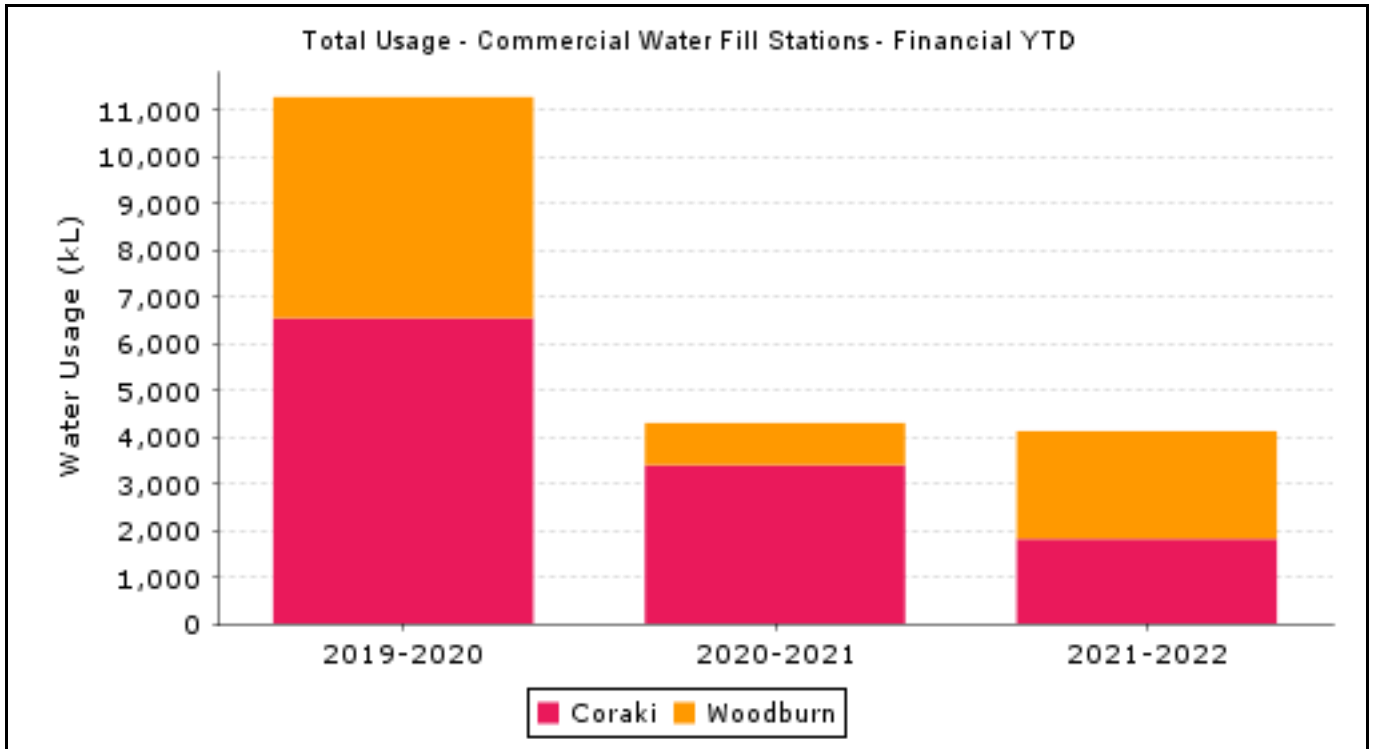


Figure 19: Total usage of commercial water fill stations. 1 July to 31 May

Delivery program progress update 1 July 2021 to 31 December 2021

Responsible Officer: General Manager (Phillip Rudd)

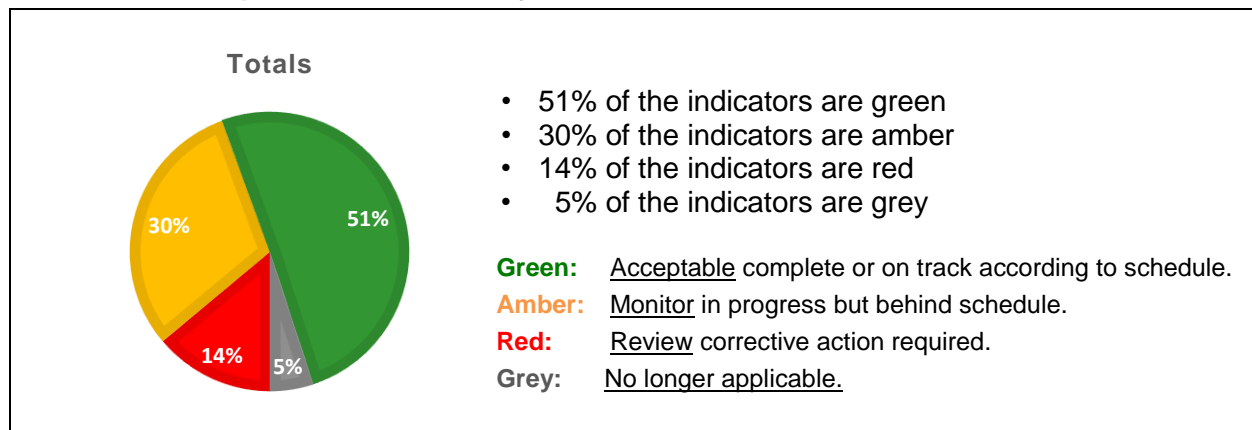
Recommendation

That Council receive and note this report and attachment regarding performance against delivery of the actions for Year 5 of the combined Delivery program / Operational plan for the period 1 July 2021 to 31 December 2021.

Background

This report relates to and provides information about Council's achievement of the performance targets in the Integrated Planning and Reporting Delivery program / Operational plan for Y5.

• Overview of performance – 1 July 2021 to 31 December 2021



Refer to the Attachment for a traffic light indicator performance report based on exception reporting.

Legal

In accordance with the *Local Government Act 1993*, the General Manager must ensure that regular reports (at least every six months) are provided to Council outlining progress against delivery of the activities detailed in the Delivery program.

The NSW Office of Local Government announced changes to the Integrated Planning and Reporting requirements in May 2020. Those changes resulted in Council's current Delivery program applying for a further 12 months to 30 June 2022. Practically, this meant adding a Year 5 to the existing Delivery program and adopting a new Operational plan which Council did at its 16 June 2021 meeting (30/21).

The postponement of local government elections from 4 September 2021 to 4 December 2021, has not altered the requirement under the *Local Government Act 1993* for councils to review the Business Activity Strategic Plan before 30 June 2022 and establish a new Delivery program / Operational plan and Resourcing Strategy to cover its principal activities for the 4-year period commencing on 1 July 2022.

Consultation

This report and the information in the attachment has been compiled in consultation with management and staff.

Conclusion

This report provides an update on the status of the actions delivered between 1 July to 2021 to 31 December 2021 as set out in the combined Delivery program / Operational plan.

Attachment:

1. Performance against delivery of actions 1 July 2021 to 31 December 2021

IP&R Delivery program / Operational plan

Reporting period: 1 July 2021 to 31 December 2021

LEADERSHIP

Our goal: 1. Values-based leadership and culture.

What achieving our goal will look like:

1.1 Leaders are visible at all levels of the organisation and are supported to effectively lead and drive performance.

1.2 Leaders are responsible for their actions and proactive in building an accountability culture.

Activity	How we will measure our performance	Links to*	Comment	STATUS
1.1.1.1 Implement leadership program for the Leadership Team.	Improvement in leadership and management skills (assessed before, during and after undertaking the program).	WFMP		●
1.1.1.2 Leader in Me ReCharge Program to support continued development and culture change (with LiMe participants).	Improvement in results against defined development objectives (measured quarterly).	WFMP		●
	Overall good / very good ReCharge program feedback from participants (measured quarterly).	WFMP		●
	At least monthly LiMe ReCharge communications to Rous (from LiMe Champion / participants).	WFMP	Disrupted communications throughout the year. Final report to staff included in Rous Connect - June 2022	●
	Staff recognition initiative.	WFMP		●
1.1.1.3 Leader in Me (LiMe) program.	Review effectiveness of the LiMe program to determine impact / contribution to cultural change and barriers in participation.	WFMP		●
1.1.1.4 Innovative action through a pilot purified recycled water scheme.	Progress pilot purified recycled water scheme for Perradenya Estate.	FWS	Further investigations into application of recycled water and drinking water guidelines/regulations at Perradenya have been undertaken internally. Consultation with regulators regarding options for PRW pilot plant have commenced.	●
	Work with relevant stakeholders to design a long-term public education campaign to increase awareness and acceptance of direct potable reuse (DPR) [Council resolution 61/20].	FWS	Research on purified recycled water schemes and associated community education campaigns in other jurisdictions undertaken. Findings to be integrated into broader engagement strategy for FWP. Expect to commence work in Q4 21/22.	●
	Further investigate indirect potable reuse (IPR) as outlined in the Future Water Project 2060, including future options for public education.	FWS	Scope of works has been developed to undertake a more comprehensive assessment of purified recycled water scheme options. Expect this to commence in Q4 21/22.	●
1.1.1.5 Lobby and drive support for regional projects through the Northern Rivers Joint Organisation of Councils.	Lobby for support and funding for the Northern Rivers Watershed Initiative.	CZMP		●
	Support and participate in regional Greenhouse Gas Abatement Strategy projects.	GGAS		●
1.1.1.6 Identify opportunities for constituent councils to participate in projects that deliver Rous' Mission and Vision (Mission: Partner with our constituent councils to provide quality services that support a sustainable and productive region. Vision: Thrive and evolve as a valued regional service provider).	Evidence of proactive attempts to deliver Rous' Mission and Vision through projects such as smart metering.	DMP		●
1.2.1.1 Performance planning and management processes include discussion of individual staff member alignment with Council Values.	Individual Mission, Vision and Values discussion held with all staff members at least 6-monthly.	WFMP		●
	Record of discussion made by the supervisor and reported to manager upon completion.	WFMP		●

Legend:

Green: Acceptable. Complete or on track according to schedule.

Amber: Monitor. In progress but behind schedule.

Red: Review. Corrective action required.

Grey: Not required however, comment included.

1.2.1.2 Review and update Code of Conduct.	Code of Conduct adopted by Council by 31 August 2022.	BAU	Initial review completed and internal review underway prior to reporting to Council.	●
	Panel of conduct reviewers established for new term.	BAU	Being progressed as a regional Expression of Interest initiative through the Northern Rivers Joint Organisation of Councils. The administration and coordination of the process including assessment of Expressions of Interest, is being coordinated by Tweed and Byron Shire Council staff. Outcome expected prior to the end of April 2022.	●
1.2.1.3 Review and update Code of Meeting Practice.	Code of Meeting Practice adopted by Council by 31 August 2022.	BAU	Initial review completed and internal review underway prior to reporting to Council and public exhibition.	●
1.2.1.4 Develop Councillor induction package.	Councillor induction package completed by 31 August 2021.	BAU		●

STRATEGY AND PLANNING

Our goal: 2. Align strategic direction to core functions and sustainability.

What achieving our goal will look like:

2.1 Being responsive to the impact of population growth on our core functions.

2.2 Strategic partnerships/relationships supportive of our mission and vision.

2.3 Business activity contributes to local and regional growth and optimal environmental outcomes.

2.4 Converting strategy into action plans that anticipate and accommodate change and allocate accountability.

Activity	How we will measure our performance	Links to*	Comment	STATUS
2.1.2.1 Develop new Integrated Planning and Reporting framework.	Integrated Planning and Reporting framework adopted (including Resourcing Strategy consisting of Asset Management strategy and plan, Long-term Financial Plan and Workforce Management Plan).	AMP; LTFP; WFMP		●
2.1.5.4 Undertake hydraulic capacity assessment of water distribution network to develop augmentation capital works plan.	Hydraulic capacity assessment completed and works plan included in 30-year capital works plan.	AMP	The performance of a future peak daily demand assessment for each constituent council is in final draft, which is needed as an input to the hydraulic capacity assessment. The hydraulic capacity assessment work will follow procurement, award and implementation in Q4 21/22 and be completed in 22/23.	●
2.1.6.1 Partner with Ballina Shire Council in developing a long-term solution for integrating Marom Creek Water Treatment Plant (WTP) and Alstonville Groundwater into the regional water supply.	Subject to a decision on the arrangements at Marom Creek WTP, planning and design for augmentation works commences.	FWP	Ballina Shire Council resolved not to support the Marom Creek WTP transfer to RCC, however works have commenced on a selection process for a new WTP site as a part of the Alstonville GW scheme.	●
	Planning for upgrade to Rous-owned Converys Lane groundwater bore continues.	FWP	The replacement of the existing bore at Converys Lane was delayed due to flooding in central NSW. Completion, including hydrogeological stress testing, is now scheduled for the Q4 21/22.	●
	Contingency planning for incorporation of Rous-owned Converys Lane groundwater bore into regional water continues.	FWP	Will commence when further testing of the new bore has been completed in Q4 21/22 (refer Activity 2.1.6.1.b). No progress has been made on this action.	●
2.1.7.1 Continue planning for a groundwater scheme at Tyagarah.	Concept planning commenced for new groundwater source at Tyagarah.	FWP	Due to delays in other projects and internal resourcing, work has not yet commenced on further planning and investigations for this groundwater scheme.	●
2.2.1.1 Progress implementation of the Coastal Zone Management Plan for the Richmond River catchment through the Coastal Zone Management Plan Implementation Committee.	Facilitate meetings of the Coastal Zone Management Plan Implementation Committee.	CZMP		●
2.2.2.1 Partner with stakeholders for the ongoing development of Flood Management plans for the Richmond River catchment.	Support and contribute to the next phase of the Tuckean Swamp Project through maintaining membership of the Project Steering Committee.	BAU		●
	Support and contribute to Lismore City Council's update to the Lismore Floodplain Risk Management Plan.	BAU		●

	Support and contribute to Richmond Valley Council's update to the mid-Richmond River Flood Plan, including updated hydrology for the Tuckombil Canal and surrounds.	BAU		●
	Review Lismore Levee Memorandum of Understanding and arrangements.	MOU		●
	Pursue shared funding and grant arrangements to implement completed Keith Hall Drainage Options Study outcomes.	BAU		●
2.2.3.1 Understand and evaluate our role as the Flood Mitigation Authority with each of our constituent councils within the Richmond River catchment.	Undertake individual workshops with senior staff and management of Lismore City, Ballina Shire and Richmond Valley councils.	BAU	Roles and responsibilities of our role as the Flood Mitigation Authority has been assessed internally, which led to the review of our Service level agreements (SLAs) with constituent councils within the Richmond River catchment. These SLAs were workshopped with senior staff of the constituent councils.	●
	Outcomes of workshop considered within proclamation context, Long-term Financial Plan implications and Council position.	BAU	This work cannot commence until further consideration of our position is undertaken.	●
	Development of future strategy for the flood mitigation function and undertake necessary investigations for the development thereof.	BAU	A preliminary draft strategic framework has been developed for internal discussion. Progress has been slow due to complexity of the issues and competing priorities.	●
2.3.1.1 Implement 'Innovate' Reconciliation Action Plan.	Actions for 2021/22 completed.	RAP	RAP Advisory Group meetings have been significantly impacted in the second half of the year. Actions have been progressed and update report to RAP AG planned for June 2022	●
2.3.1.2 Complete the Reconciliation Action Plan Impact Measurement Report.	Report to Reconciliation Australia annually on performance against key Reconciliation Action Plan targets to track and measure the broader impact of the Reconciliation Action Plan program.	RAP	Completed for Reflect RAP 2021	●
2.3.2.1 Develop a new Reconciliation Action Plan.	Reconciliation Action Plan endorsed by Reconciliation Australia.	RAP		●
2.3.4.1 Implement Greenhouse Gas Abatement Strategy.	Provide a status report to Council on the progress of implementation of the Greenhouse Gas Abatement Strategy, including revolving fund status.	GGAS	Fund status was reported to Council in October 2021 as part of the Reserve Scorecard.	●
	Install solar photovoltaic panels on Administration building.	GGAS	Molesworth St Administration building was investigated for installation of solar PV. However, due to not owning the building, complications around its installation and maintenance, and the decision during the FY to relocate to Ballina, this site has been removed as an option for solar PV. The focus has been turned to the planning for solar PV at Nightcap WTP	●

2.3.5.1 Implement enhanced Demand Management Plan actions.	Provide an end of year performance report to Council on the progress of the implementation of the Regional Demand Management Plan.	DMP	The 'Demand Management Status 20-21 Report' was provided to Council in October 2021.	●
	Actively promote the Sustainable Water Partnership Program to targeted customers.	DMP		●
	Implement three water-saving projects identified in the water saving plans.	DMP	Broadwater Sugar Mill turbidity sensor project; Byron Bay High School tap replacement project; Reflections (Ballina) smart metering project; Cape Byron Power smart metering installation (phase 1).	●
	65 residential rainwater tank rebates per annum.	DMP		●
	Implement a communication and engagement program targeting high residential water users to support the 160 Litre Challenge.	DMP	A suite of water saving resources and tools including an online water calculator were previously published. These resources have been broadly promoted to water users.	●
2.3.7.1 Strategic review of options for integrated lots and water reclamation at Perradenya.	Outcome of reviews report to Council.	LTFP	Strategic review delayed. Planned workshop for September 2022	●
2.3.8.1 Undertake a desktop review of suitable drainage systems where further investigation is warranted to bring about improvements.	Prioritised list of drainage systems where landholders agree change is possible and change is affordable.	BAU		●
2.4.2.1 Implement Capital Works Plan.	Project Management Framework monthly reports completed on time (within 10 days of the end of the calendar month).	BAU	Reporting through the PMF remains inconsistent. The focus during this period has been the development of a revised PMF document to improve usability for Project Managers, and ultimately achieve better project outcomes and reporting.	●
	Key project delivered: Stage 1 - St Helena 600 pipeline.	CWP		●
	Key project: Stage 2 - St Helena 600 pipeline - 50% completion.	CWP	60 days extension of time approved due to poor weather conditions. 32% of pipe chainage laid to 31 December 2021	●
	Key project delivered: St Helena Reservoir roof replacement.	CWP	Design documentation prepared for refurbishment of St Helena reservoir roof and access platform. Insufficient available funds to complete project with current design. Further review of design to be considered.	●
	Key project: Perradenya Release 7 (commence construction).	CWP	Project delayed. Construction certificate to be submitted in Q3 2022	●
	Key project delivered: Upgrade of Broadwater 150 pipeline.	CWP	Project design and documentation complete. Tenders to be called for construction and grant funding to be applied for.	●
	Key project commenced: Byron 200 pipeline renewal - investigation and design.	CWP		●
	Key project delivered: Renewal of more than 1km of reticulation pipeline at Richmond Hill, Lismore.	CWP	Project design and documentation complete. Tenders to be called for construction. Available project budget may be of concern.	●
	Key project delivered: Renewal of Rocky Creek Dam destratification system.	CWP	Due to internal resourcing limitations, this project has been deferred until P&D positions are all filled, or external resources become available to support its delivery.	●
2.4.4.1 Review Disability Inclusion Action Plan.	Plan reviewed in conjunction with the development of the new Integrated Planning and Reporting framework	AMP, LTFP, WFMP		●
2.4.6.1 Complete Rous' operational readiness actions as identified in the Drought Management Plan.	Review and finalise drought management plan templates, guidelines and resources for non-residential customers	DMP	A draft drought management plan template has been prepared, scheduled to be issued to constituent councils for feedback once Demand Management Plan has been adopted.	●
	Prepare a funding submission for constituent council consideration for a future temporary staff member within Rous County Council to manage water restrictions and exemption enquiries consistently.	DMP	New temporary position has been proposed within the updated Regional Demand Management Plan which has commenced preparation.	●
	Review and update Drought Management Plan (version adopted in August 2016).	DMP	Development of the updated Regional Drought Management Plan has been deferred until ongoing water sources within the Future Water Project 2060 are identified.	●

	Planning and design of upgrade works to allow use of existing bore at Woodburn as a regional source of water during drought.	DMP	The Drought Management Project Manager under the FWP2060 was appointed in early November 2021. Preliminary infrastructure requirements have been identified.	●
	Planning and design of works for new bores at Woodburn.	FWP	Preliminary works are continuing, but delay in appointment of Drought Management PM has delayed commencement of pre-cursor work, so this work is likely to be incomplete this FY.	●
2.4.9.1 Undertake workforce planning activities.	Workforce planning sessions undertaken per annum (including forecasting, assessment, review, monitor and succession planning).	WFMP		●
	Workforce planning reports and metrics provided to the Leadership Team quarterly.	WFMP		●
	Development of strategic Workforce Management Plan completed.	WFMP	On track for completion by 30-06-2022.	●
2.4.10.1 Review and formal adoption of Asset Management strategic documents.	Adoption by the Leadership Team of Asset Management Plan and Maintenance Management Strategy.	AMP		●
2.4.10.2 Undertake strategic review of Nightcap Water Treatment Plant to develop 20-year master plan of renewals and upgrades.	Finalisation of Strategic Review of Nightcap Water Treatment Plant and reported to the Leadership Team and Council.	AMP	The project is progressing well, with some increase in scope as investigations highlight process issues and result in further necessary investigations. Project is ongoing and expected to be completed in 2021/22 financial year.	●
2.4.11.1 Develop ICT Strategic Plan 2022-25.	Adopted by the Leadership Team.	ICTSP	Work has commenced, including the engagement of an external consultant. Consultation delays have been experienced due to the flooding events. Estimated completion date August 2022	●
2.4.13.1 Council-owned areas of buffer zones / catchment lands are managed to meet identified objectives for water quality management purposes through ongoing maintenance effort.	Work progresses on Council-owned buffer zone lands in line with the Maintenance Management Plan, as evidenced by end of year status report.	BRMMP	Phil to follow up	●
2.4.13.2 Prepare Rocky Creek Dam multi-year Master Plan.	Finalisation of Master Plan and endorsed by Council.	AMS	This project has been deferred to 2026, due to uncertainty of Proposed Dunoon Dam. Scope and tender documents are prepared for use in the future. A preliminary study on the value of tourism and recreational services provided by Rocky Creek Dam has been completed.	●
2.4.13.3 Deliver Catchment Management Plan actions.	Ref. A1: Implement catchment landholder education and awareness through promotion, concerning the impact of catchment activities on drinking water quality and the role of catchment stakeholders in protecting catchments.	AMS	Opportunities for field day and engagement activities have been scaled back during 21/22 to date.	●
	Ref. A5: Comprehensive review of catchment water quality data.	CaMP		●
	Ref. A7: Completion of intensive pesticide monitoring program in each catchment.	CaMP	Deferred to 23/24 due to lack of NSW Health funding to support this program.	●
	Ref. A8: Investigation to determine the presence of potentially harmful contaminants in source water.	CaMP	Deferred to 23/24 to run concurrently with intensive pesticide monitoring program.	●
	Ref. WR16: Implement extension of Wilsons River Reach Plan extension.	CaMP	Commencement delayed due to delays in completion of planning process in partnership with landholders for Wilsons River Reach Plan (Boatharbour to Eltham).	●
	Ref. EC20: Implement extension of Emigrant Creek Reach Plan extension.	CaMP	Commencement delayed due to delays in completion of planning process in partnership with landholders for Emigrant Creek River Reach Plan.	●
2.4.14.1 Develop floodgate management plans / protocols for Rous County Council's critical infrastructure sites as identified in the Rous County Council service level agreements (CZMP 4b).	A further 12 Active Floodgate Management plans reviewed and updated, with 25 plans remaining to be reviewed and updated.	CZMP		●
	All landowner volunteer floodgate operators are trained, and their activities managed and reported every six months to the Audit, Risk and Improvement Committee, and annually to Council.	CZMP		●
	Undertake any surveys or investigations required to review and implement Active Floodgate Management plans.	CZMP		●

2.4.14.2 Rehabilitate very high/high priority riparian restoration sites (CZMP 6a).	Implement riparian improvement works on 1 ha.	CZMP		●
2.4.14.3 Continue the development of a Coastal Management Program (CoMP) for the Richmond River estuary.	Stage 1: Scoping study completed and adopted by partners.	CoMP	Delays experienced as the Department of Planning and Environment placed the project on hold pending further advice regarding a legal opinion that DPE sought on various matters relating to the scope of CoMPs.	●
2.4.14.4 Richmond River water quality monitoring data loggers remain operational.	Data loggers operating and providing publicly accessible data.	Grant		●
2.4.15.1 Strategic plan for exit from Dunoon Dam as a future water project.	Preparation of a plan (including revocation of zoning entitlements and disposal of land held for the purpose of Dunoon Dam) commenced.	BAU	ON HOLD - pending direction of the Future Water Project 2060. Note Council resolution in Feb 2022 approving additional studies into cultural heritage and biodiversity. Scope of work to be commenced in late 2022.	●
2.4.18.1 Develop strategic business plan for Richmond Water Laboratories.	Plan approved by the Leadership Team and workshop to Council.	RWLSP	Strategic review delayed. Revised due date - July 2022	●
2.4.20.1 Review Drought Management Plan.	Drought Management Plan reviewed and updated in consultation with constituent councils.	DMP	Development of the updated Regional Drought Management Plan has been deferred until ongoing water sources within the Future Water Project 2060 are identified.	●
2.4.22.1 Engage internal audit partner.	Market tested and new internal audit partner engaged.	BASP		●
2.4.22.2 Internal Audit Strategy 2022/26.	2022/26 Internal Audit Strategy developed to govern next 4-year internal audit cycle.	BASP	Draft Internal Audit Strategy reported to the 26-04-2022 Audit Risk and Improvement Committee for endorsement, prior to reporting to Council's ordinary 15 June 2022 meeting for adoption.	●
2.4.24.1 Implement actions contained in the Department of Primary Industries / Local Land Services Weeds Action Plan (WAP).	Complete all actions and activities identified in the WAP.	WAP		●
2.4.25.1 Progress actions from 'Procure to Pay' audit relating to procurement.	Progress reports to the Audit, Risk and Improvement Committee.	BAU		●
2.4.25.2 Undertake review and gap analysis of fleet.	Progress reports to the Leadership Team.	BAU	A fleet management review has been completed and the recommendations are being priorities.	●
2.4.26.1 Implement improvement actions identified in Maintenance Strategy.	Maintenance activities not captured within Confirm identified and management process developed.	AMS/MMS		●
	Critical and non-critical maintenance identified with management process within Confirm.	AMS/MMS	Review of the maintenance program to be completed before this activity will begin.	●
	Defect capture within Confirm improved to include failure modes.	AMS/MMS		●
	Options for improved maintenance cost capture investigated.	AMS/MMS	Investigation complete - currently businss systems do not support detailed cost capture.	●
	Agreed timeframes for attending to service requests and defects reviewed and documented.	AMS/MMS	Service request response times developed and implemented and communicated across Customer Service Team and Operations Teams	●
	Condition assessment program for asset classes developed.	AMS/MMS	Flood Mitigation condition assessment program developed and implemented. Water distribution assets program drafted and currently being tested to be implemented when Confirm Connect licenses are available for team	●
	Review of planned maintenance activities for asset classes completed.	AMS/MMS	Maintenance activities reviewed. Required amendments identified to be implemented to be tied into to defect capture and asset criticality portions of the project	●
	Standard activities for addressing common defect types developed.	AMS		●
	Review process for Confirm maintenance program developed and implemented.	AMS	Not yet started.	●
2.4.27.1 Development Servicing Plan revised and updated in accordance with current Developer Charges Guidelines for Water Supply and direction for the Future Water Project.	Development Servicing Plan reviewed and updated in accordance with current Developer Charges Guidelines for Water Supply and Integrated Water Cycle Management Strategy.	DSP		●
	Developer Servicing Plan adopted by Council.	DSP	Will not be completed this financial year. Aiming for October 2022 Council meeting for adoption.	●
2.4.28.1 Review and update the Regional Demand Management Plan and strategies in partnership with constituent councils.	Regional Demand Management Plan reviewed and updated in consultation with constituent councils.	RDMP	The draft Regional Demand Management Plan 2023-2026 has been prepared incorporating a review of the current plan and feedback from constituent councils.	●

	Regional Demand Management Plan adopted by Council.	RDMP	As at December 2021 this was scheduled for June 2022.	●
2.4.29.1 Commence roll out of the 2-year smart metering and backflow prevention program where necessary, to Council's retail water customers.	50% of Council's retail customers have smart metering installed and operational, including backflow where required.	IWCM	Appointment of the Smart Metering Project Manager occurred in September 2021. Project establishment and preliminary discussions with Constituent Councils has occurred since this time. Installation of smart meters won't occur during the 21/22 FY. The project has also been expanded to include backflow devices for identified direct Rous customers, adding some more complexity to the project.	●
2.4.30.1 Partner with Richmond Valley Council to provide smart metering to Broadwater to inform planned bulk water main augmentation.	Agreement reached between Council and Richmond Valley Council on arrangements for the installation of smart metering and the management of customer usage data.	IWCM	Appointment of the Smart Metering Project Manager occurred in September 2021. Project establishment and preliminary discussions with Constituent Councils has occurred since this time. Direct discussions with RVC have not occurred while the project is being developed.	●
	Subject to agreement, installation of smart metering for Richmond Valley Council customers in Broadwater commenced.	IWCM	Appointment of the Smart Metering Project Manager occurred in September 2021. Project establishment and preliminary discussions with Constituent Councils has occurred since this time. Until discussions occur, no decision on installations of smart meters at Broadwater has been made. There will be no smart meter installations for any Rous or other customers in 21/22.	●
2.4.31.1 Commence implementation of Council's 4-year Water Loss Management Plan (WLMP).	Review and update existing water main network hydraulic model to allow evaluation of proposed WLMP actions.	WLMP	The performance of a future peak daily demand assessment for each constituent council is in final draft, which is needed as an input to the hydraulic capacity assessment. The hydraulic capacity assessment work will follow procurement, award and implementation in the Q4 21/22 and be completed in 22/23.	●
	Verify suitability and prioritise installation of bulk meters for St Helena and flow meters for Ewingsdale, Tintenbar, Newrybar, Richmond Hill.	WLMP		●
	Evaluate locations for and viability of a trunk main leak detection trial.	WLMP	This project will be informed by the work performed in the hydraulic capacity assessment and modelling of the bulk water network system, which will be implemented on completion of the Peak daily demand assessment.	●
2.4.32.1 Implement improvement actions in the Confirm Development Plan.	Suitability of Confirm to meet Council's ongoing requirements against alternatives on the market reviewed.	AMS/CDP	This is dependent on the Business systems review performed by IT. Not expected to be completed by June 2022.	●
	Process of raising monthly maintenance activities reviewed and optimised.	AMS/CDP		●
	Process and workflow for asset related enquiries reviewed and documented.	AMS/CDP		●
	Training with teams using Confirm completed.	AMS/CDP		●
	Potential use of Confirm Web reviewed.	AMS/CDP		●
	Roll out Confirm Connect to remaining teams.	AMS/CDP		●
2.4.33.1 Implement improvement actions identified in Asset Management Strategy.	Major asset management processes documented (including asset addition / disposal, asset handover, useful life review, asset valuation).	AMS		●
	Review of current asset information system, including asset data completeness and quality.	AMS		●
	Asset information governance document developed.	AMS	Unlikely to be completed by June 2022. Reprioritised in the Asset Management Improvement Action Plan to be performed in future years.	●
	Process for review of asset management documents, including scope, frequency and responsibility developed.	AMS		●
	Schedule of asset management documents created to track review process.	AMS		●
	An electronic asset management manual accessible to all staff developed with links to processes added as developed.	AMS		●
2.4.34.1 Revaluation of water infrastructure assets.	External audit sign off and upload of revaluation of water infrastructure assets into asset register.	AMP		●



INFORMATION AND KNOWLEDGE

Our goal: 3. Create value through applying knowledge.

What achieving our goal will look like:

3.1 We will better utilise the knowledge and expertise of our people and the knowledge embedded in our organisational systems to inform decision-making and enhance transparency, business continuity and resilience.

Activity	How we will measure our performance	Links to*	Comment	STATUS
3.1.1.1 Implement improvement actions identified in GIS Development Plan.	Asset data reviewed.	AMS		●
	Confirm and MapInfo integration reviewed.	AMS	Will be started once review of Confirm completed. Unlikely to be completed by end of June 2022.	●
	Document links within MapInfo updated.	AMS	Deferred until new plan records (redeye) software implemented as any work completed now would need to be duplicated once that project is completed.	●
	Spacial datasets converted to GDA2020 projection.	AMS	Delayed until 22/23. Budget submission made to engage consultant.	●
3.1.2.1 Review the Emergency Management Manual, including Emergency Response plans and supporting appendices to ensure currency.	Achieved.	ERP	Debriefs conducted with teams to identify 'lessons learned' from February 2022 floods. Feedback is being collated and will be used to inform the review. The Enterprise Risk Coordinator role has been recruited and the successful candidate commences duty in early May 2022. It is not expected that the review will be completed by 30 June 2022 as originally forecast. A revised completion date will be identified in consultation with the new Enterprise Risk Coordinator in due course.	●
3.1.3.3 Perform security-focused external review of a key Information Technology system.	Review result reported to Leadership Team (including actions arising).	BAU	Discussion with a security consulting company has been held, awaiting formal proposal regarding scope and cost.	●
3.1.4.1 Identify and provide opportunities for employees to cross skill and knowledge share in other areas of the organisation.	Performance planning and management processes include discussions of individual skills and interests.	BAU		●
	Organisation skills and interests inventory developed.	BAU	Competing priorities have resulted in this action not being progressed. It will be carried forward for consideration in the new financial year.	●
3.1.5.1 Embed Risk and Assurance activities across Council operations.	Continue implementation of 2021 Risk Management Plan to agreed schedule.	BAU	The Enterprise Risk Coordinator role is the assigned action owner. The role has been vacant since late 2021 and as such no progress has been made in implementing the 2021 Risk Management Plan. The recruitment process is complete and the successful candidate commences duty in early May 2022. The schedule of implementation of the Risk Management Plan will need to be revised and redetermined.	●
	Monitor quarterly risk register reviews by teams in each business group and the Leadership Team (for the strategic risk register) and implement control testing.	BAU	See comment above.	●
	Present revised risk reporting to each Audit Risk and Improvement Committee meeting.	BAU		●
	Develop, roll out and report completion rates of Risk Management Training Module.	BAU	Deferred to next financial year pending reassessment of business need by action owner. The Enterprise Risk Coordinator role is the assigned action owner. The role has been vacant since late 2021 and as such no progress has been made in implementing this action. The recruitment process is complete and the successful candidate commences duty in early May 2022.	●
	Review and update Council Risk Management policy and plan by 1 March 2022.	BAU	See above. The Risk Management policy and plan was last reviewed and adopted by Council on 17-02-2021.	●

<p>3.1.5.2 Implementation of further functionality of WHS management tool (Vault).</p>	<p>Test further functional options of Vault system and implement if best practice and appropriate for Council.</p>	<p>WHSMS</p>	<p>The Health Safety and Environment Coordinator role is the assigned action owner. The role has been vacant since late 2021 and as such limited progress has been made in relation to this action. The recruitment process resulted in the need to re-advertise the role. The specific timeframe for delivery of this action is unknown. It is not expected that the action will be completed by 30 June 2022 as originally forecast.</p>	
<p>3.1.6.1 Review of policies and procedures for suitability and currency.</p>	<p>Continue statistical reporting to Audit, Risk and Improvement Committee on status of Council's policies and procedures.</p>	<p>BAU</p>		

PEOPLE

Our goal: 4. Organisational capability through our people.

What achieving our goal will look like:

4.1 A high performing team enriched through diversity.

4.2 A workplace where safety and wellbeing come first.

Our goal: 3. Create value through applying knowledge.	How we will measure our performance	Links to*	Comment	STATUS
4.1.1.1 Conduct employee surveys.	Engagement survey initiatives achieved.	WFMP	Not progressed due to competing priorities, specifically the organisation resourcing and structure review in August 2021 (planning and implementation of actions arising).	●
4.1.2.1 Identify and provide opportunities for employees to acquire a wider skill set.	Corporate in-house core training package developed; tailored to managers, supervisors and staff.	BAU	Key modules and topics identified, roll out delayed pending implementation of the 'Learning' module in the Human Resources Information System (ELMO).	●
4.1.3.1 Develop a promotional video for Employee Value Proposition and organisation (overall).	Digital analytics showing number of views and number of links to video clicked.	WFMP	There were a total of 81 views of the EVP video during quarter 1.72 or 88.9 % were from an external website5 from a Youtube search4 unknown.	●
4.2.1.1 WHS management reporting.	Officers (Leadership Team) informed of WHS performance and accountable for continuous improvement in workplace safety.	WHSMS	Quarterly report provided to the Leadership Team as part of the People and Performance Group update report.	●
4.2.1.2 Employee participation in in-house WHS training activities and national safe work month (October).	Program of safety, health and wellbeing-related awareness raising activities undertaken.	WHSMS	Continual roll out of safetyhub topics. Health and wellbeing program reviewed and new provider engaged.	●
	All allocated training completed.	WHSMS	New employees assigned 4 targeted topics in safetyhub with completion date at end of their probation period. 100% completion rate.	●
	More than 50% of workforce actively participate in a national safe work month activity.	WHSMS	Safe Work Month activities postponed due to Covid. 2021 theme (driving and vehicle safety) to roll over to 2022.	●
4.2.3.1 Progress action plan following WHS Self-Assessment Audit.	Actions prioritised and progress against implementation reported to the Audit, Risk and Improvement Committee.	BAU/ WHSMS	WHS plan developed but implementation delayed due to current working conditions around Covid and flood recovery.	●

CUSTOMERS AND STAKEHOLDERS

Our goal: 5. Proactive management of relationships with member councils and key stakeholders.

What achieving our goal will look like:

5.1 Mutual understanding of needs, priorities, expectations, functions, operations, service standards, span of control and influence.

Activity	How we will measure our performance	Links to*	Comment	STATUS
5.1.1.1 Provide regular flow of information to key stakeholders promoting Council activity and raising brand value and awareness.	Active social media streams.	CESP	There are currently 5 social media streams with 3 active streams: YouTube, Facebook and LinkedIn.	●
	Regular review of the function and effectiveness of feedback mechanisms.	CESP	Rous website 'News' and 'On exhibition' pages have recently been updated. Previously items on exhibition calling for public feedback was incorporated into general news items making it unclear to the community where they could provide feedback. These two areas have been separated and old news items and items on exhibition have been archived into year categories.	●
	Active events calendar to identify appropriate events for stakeholder engagement.	CESP	A communications calendar has been developed and is being used to identify opportunities for communications content, events and stakeholder engagement throughout the remainder of 2022.	●
5.1.2.1 Participation in NSW Audit Office performance audit reviews.	Achieved.	CSP		●
5.1.3.1 Participation in the Northern Rivers Joint Organisation as an associate member.	General Manager performing the role of representative on the Natural Resources Management sub-committee and reporting back to the General Managers' Group on the sub-committee's operations.	BAU		●
5.1.4.1 Establish service standards for key business processes to optimise attraction and retention.	Vacancies are filled within 90 business days of approval to recruit.	WFMP		●
	Less than or equal to 5% turnover for new employees within first 18 months post probation.	WFMP		●
	Recruitment and selection activities promote and comply with Equal Employment Opportunity principles.	WFMP		●
	As measured through employee pulse surveys, at least 90% of new employees are satisfied with the induction process.	WFMP		●

PROCESS MANAGEMENT, IMPROVEMENT AND INNOVATION

Our goal: 6. Continuous improvement through process management and innovative thinking.

What achieving our goal will look like:

6.1 Recognising and being open to opportunities for improvement through innovation.

Activity	How we will measure our performance	Links to*	Comment	STATUS
6.1.1.1 Implement electronic Business Paper Agenda and Minute system.	Technology solution implementation phase commenced.	BAU		●
6.1.2.1 Plan for staged digitisation of paper records.	Implementation of plan commenced.	BAU	Work has commenced on digitisation to assess the efficiency of transfer methods. This assessment will inform full plan, cost and time.	●
6.1.8.1 Review and document Customer Service processes.	Commence implementation of endorsed recommendations from the Customer Service review.	BAU		●
6.1.8.2 Document key governance processes to achieve consistency and continuity of service into the future.	Review and document key governance processes for whole-of-Council use.	BAU	Guidance material endorsed for development and approval of governing documents.	●
6.1.9.1 Implement Human Resources Information Management System (end to end technology solution) to reduce risk and optimise efficiencies.	Streamline recruitment, onboarding and performance review processes through the use of digital platforms.	WFMP	Recruitment and onboarding modules are 'live' and the performance review module roll out is underway.	●

6.1.10.1 Review compliance with the Development Servicing Plan for the calculation of Equivalent Tenements (ETs) and the collection of developer charges by constituent councils for the Rous Bulk Water Supply area.	A report to the Leadership Team to inform the development of the new Development Servicing Plan.	LTFP	Obtaining the necessary information from publicly available constituent council sources has been difficult & hampered our ability to verify compliance. An alternative process will need to be considered.	●
6.1.11.4 Reassess and redetermine business requirements for a Customer Relationship Management System and opportunities to utilise existing technology systems.	Report to Leadership Team by 30 November 2021.	BAU	ON HOLD - pending the review of business requirements and the need for an enterprise resource planning software solution to achieve integration of core business processes (ie. single software solution to manage day-to-day business activities incl. finance, customer enquiries, procurement, risk management etc).	●
6.1.11.7 Implement Corporate Action 10 - Project Management System.	Technology solution implementation phase commenced.	BAU	ON HOLD - pending the review of business requirements and the need for an enterprise resource planning software solution to achieve integration of core business processes (ie. single software solution to manage day-to-day business activities incl. finance, customer enquiries, procurement, risk management etc).	●
6.1.11.8 Implement Stage 2 of Content Manager roll out.	Progress Stage 2 actions to optimise digital key corporate workflows and information sharing.	BAU	External "health check" review on CM implementation has commenced. Draft report received.	●
6.1.12.1 Undertake a review of the process by which Council is advised of development occurring in our operational area and which affects our functions.	Engagement with constituent councils has occurred.	BAU	Has occurred as part of engagement with Councils around the SLAs. Consensus and a final position have not been reached. This remains a complex issue to resolve.	●
	Position provided to Council on any proposed changes, including fee structure, by 31 January 2022.	BAU	Unable to progress until previous action complete.	●
6.1.13.1 Review and develop Council's standard contracts.	Council's Engagement Agreement and Standard Terms and Conditions updated and current.	BAU		●

RESULTS AND SUSTAINABLE PERFORMANCE

Our goal: 7. Sustainable performance.

What achieving our goal will look like:

7.1 We are recognised as a valued regional service provider and reliable cost effective deliverer of our core functions and operations.

7.2 Levels of service align with agreed priorities, financial and asset capability and long-term financial plans.

Activity	How we will measure our performance	Links to*	Comment	STATUS
7.1.1.1 Performance report issued to Service Level Agreement parties in relation to delivery of services subject to the agreement.	Copy of performance report issued with Delivery Program report.	DP	Performance reporting to be confirmed subject to adoption of new Service Level Agreements with constituent councils	●
7.1.1.2 Performance report issued to Councillors in relation to delivery of services subject to Service Level Agreements as part of communications with general managers.	Copy of performance report issued with Delivery Program report.	DP	Performance reporting to be confirmed subject to adoption of new Service Level Agreements with constituent councils	●
7.1.1.3 Identified buffer zone areas that are privately owned or on school land reach 'maintenance standard', and are handed back to their owners.	Work has been carried out to bring affected land to the required standard and buffer zone areas are handed back to landowners for ongoing management.	BRMMP		●
7.1.1.4 Investigate an active floodgate in Swan Bay to manage nutrient build up.	Investigate long-term solution implemented for weed reduction in Swan Bay.	DP	A hydraulic report was undertaken to look at impacts of construction of an active floodgate on Swan Bay to manage nutrient loads. The report identified a significant, high cost engineering solution was required to provide flushing to achieve this outcome. Further, the report did not consider the ecological impacts of introducing salt water into a fresh water ecosystem. Based on the high capital costs and unknown ecological impacts, the works are not deemed a priority. The existing management program will continue.	●
7.1.2.1 Achieve or exceed adopted financial budget forecast in net profit (Richmond Water Laboratories).	Current financial year.	LTFP	Potential impact through March flood	●
7.1.3.1 Deliver services according to service contracts in place (Richmond Water Laboratories).	Current financial year.	RWLSP		●
7.1.6.1 Continue to progress design, cost and construction of Perradenya cycle path in negotiation with Lismore City Council.	Construction budget, timetable and way forward considered by Council.	BASP	The cycleway project is part of a larger review of remaining development stages at Perradenya.	●
7.1.6.2 Complete construction and marketing strategy for Release 7 of Perradenya.	Consultation substantially completed and marketing strategy adopted by Council.	LTFP	Release 7 to be undertaken in 2022/23.	●
7.1.7.1 In accordance with NSW Dam Safety Act and Regulations, meet our obligations as an owner of dams.	Update the Operations and Maintenance plans and Dam Safety Emergency plans for Rocky Creek Dam and Emigrant Creek Dam.	DSMS	Update of the O&M manuals are in progress. Update of emergency plans is dependent on the completion of dam hydrology investigations which are behind schedule	●
	Establish a Risk Management framework and perform a Risk Assessment on both dams, including identifying any further necessary investigations.	BAU	Dam Break Studies are currently underway for both dams which will produce the risk assessment for flood events at the dams including the performance of the spillways. This is an essential part of the Risk management Framework (Section 14 of Dams Safety Regulations). The study will also review the Consequence category assessments of both dams. This work is envisaged to be delivered as inputs to the Assessment of societal and individual risk rating (Section 15 of the Dams Safety Regulations) with is expected to start in 2022.	●
	Investigations targeting specific failure modes that are identified in the Risk Assessment (cost dependent on gap analysis of information undertaken in the Risk Assessment).	BAU	The investigations are still to be determined during the Risk assessments above and are expected to be delivered in 2022.	●
	Annual Report submitted.	DP	The annual report is required to be submitted to Dams Safety NSW by 31 March 2022	●
	Dam Safety Management System implemented and ongoing reviews conducted.	DSMS	The Dam Safety Management System document has been developed and approved. The requirements of Dams Safety NSW have been met.	●
7.2.1.1 Water quality monitoring reports completed for drinking water monitoring programs.	Drinking water management system annual report submitted to NSW Health.	DWMS	Report in draft ready for final approval	●

	Water quality summary report produced and uploaded to website.	DWMS		●
7.2.2.1 Report on progress of actions to mitigate risk of environmental harm from activities (environmental action list).	Provide an annual update report to Council until actions on the action list are closed out.	BAU	Annual report to be provided to Council in February 2022.	●

Contract for the provision of electricity for Rous County Council operations

Responsible Officer: Group Manager Operations (Adam Nesbitt)

Recommendation

That Council:

- a) Note the proposed engagement of Regional Procurement and EnergyAction to undertake, on Rous' behalf, a reverse auction for electricity (contestable sites only).
- b) Note that a contract for purchase or sale at public auction is exempt from the tendering requirements under the *Local Government Act 1993* and that the General Manager has the delegated authority to execute the contract.

Background

Rous County Council (Rous) has a Retail Electricity Agreement with Shell Energy Retail Pty Ltd (Shell Energy) for the supply of electricity to 12 sites, buildings and installations across Rous' operational area. These 12 sites are known as Contestable Sites, as they consume more than 100 Megawatt Hours (MWH) per annum. Sites consuming less than 100 MWH per annum are considered Non-Contestable and are billed differently.

The contract with Shell Energy expires on 31 December 2022.

Rous has previously engaged Regional Procurement, a specialist local government procurement advisory consultancy, to manage the execution of the electricity supply contract. Rous is proposing to again engage Regional Procurement, who partner with EnergyAction, to undertake a reverse auction on Rous' behalf to obtain prices for the supply of electricity to meet Rous' needs. A reverse auction means that instead of the purchaser (Rous) bidding to buy something, the suppliers (licensed electricity retailers) bid to sell something to Rous.

EnergyAction has developed the Australian Energy Exchange which allows licensed energy retailers to competitively bid against one another to supply an organisation's energy. During the reverse auction, all bids are visible to all bidders. Rous pays a small fee (\$495) to EnergyAction to undertake the reverse auction.

At the end of the reverse auction, Rous will have three working days to work with Regional Procurement to assess the reverse auction bids and then execute a contract with the successful licensed energy retailer. Once the contract is executed, Rous' relationship is with the licensed energy retailer, and the arrangements with Regional Procurement and EnergyAction cease.

The short time frame to execute the contract is due to the volatile nature of the electricity market. However, once the contract is executed, the prices are fixed for the two-year period.

The new contract will not affect Rous' install renewable energy at any of our sites or our attempts to reduce our consumption through other means, such as the use of more energy efficient equipment.

Finance

Rous' consumption of electricity across the 12 sites during the last 12 months (1 March 2021 to 28 February 2022) was approximately 5.5 Gigawatt Hours (GWH). The actual expenditure for this period was \$1.118 million. The draft 2022/23 Budget has allowed \$1.335 million for electricity consumption across the 12 sites.

Legal

In 2010, Hunter Councils Inc. sought the opinion of the Department of Local Government and Sparke Helmore Lawyers as to whether a reverse auction was considered a public auction under section 55(3)(f) of the *Local Government Act 1993*. Their advice was that the procurement of the supply of electrical energy by reverse auction conforms with the requirements of section 55(3)(f) of the *Local Government Act 1993* and is exempt from the tendering provisions of the Act.

The proposed procurement is consistent with Rous 'Procurement' policy.

Consultation

Not applicable.

Conclusion

A procurement process is required shortly to obtain prices and enter into a new contract for the supply of electricity to 12 of Rous' sites. The new contract is to be in place well before the current contract expires on 31 December 2022.

Rous is proposing to engage Regional Procurement and EnergyAction to undertake a publicly advertised, reverse auction to obtain prices for the supply of electricity for a 24 or 36 month period from 1 January 2023.

Based on previous legal advice, the reverse auction process is exempt from the tendering provisions of the *Local Government Act 1993* and therefore the General Manager has the delegated authority to execute the contract for the provision of electricity for Rous operations.

Reports / actions pending

Responsible Officer: General Manager (Phillip Rudd)

Recommendation

That the report be received and noted.

Background

Following is a list of pending resolutions with individual comments provided on current position and expected completion date.

Meeting	Resolution	Status
20/02/19	Confidential report: Development Servicing Plan for Bulk Water Supply 2016 – request for deferred payment arrangement	
	<p>RESOLVED [13/19] (Mustow/Cadwallader) that Council:</p> <ol style="list-style-type: none"> 1. Receive and note this report. 2. Approve the request for deferred payment arrangements as set out in the report. 3. Receive a subsequent report on policy options for deferred payment arrangements having regard to the Development Servicing Plan for Bulk Water Supply and the policy positions of constituent councils. 4. Reject any further consideration of similar requests until point 3. is complete and a policy position is determined. 	<p>Scheduled for review before the expiry of the current Development Servicing Plan in 2024.</p> <p>UPDATE: The scope of work for the development of the new Development Servicing Plan is complete and quotes are being called for the new Plan.</p> <p>UPDATE: A consultant was appointed in mid-March 2022 to prepare a new Development Servicing Plan. The new Plan is substantially progressed. A draft Plan will be presented to Council in October 2022.</p>
11/12/19	Information reports	
	<p>Perradenya cycleway: A future report be provided to Council.</p>	<p>IN PROGRESS: Workshop presented at September 2020 workshop. Report to Council scheduled for April 2021.</p> <p>DEFERRED: Deferred to new term of Council subject to adoption of the FWP2060 and incorporation into the Long-Term Financial Plan. Target December 2021 – June 2022.</p> <p>UPDATE: February 2022 – June 2022.</p> <p>Site visit and workshop scheduled for September 2022</p>
	<p>Richmond River Cane Growers' Association submission: <i>Review of Tuckombil Canal fixed weir.</i> (Letters 118585 / 53238)</p>	<p>IN PROGRESS: Staff engaged with RVC staff around their grant application for a Study to update their Richmond River Flood Model (2010). Their grant was successful, and they have commenced procurement of a modelling consultant. Rous has contributed \$10,000 towards the project. One secondary goal for their Study is to consolidate these models along the mid to lower Richmond, including the Evans River Model, the W2B Pacific Highway Upgrades and collect high resolution flood modelling</p>

Meeting	Resolution	Status
		<p>information around the Tuckombil Canal/ upstream.</p> <p>The updated model information will contribute to a future Rous-led options study for the Tuckombil Canal. The Cane Growers' Association was advised in April 2020 of the intentions with regards to Richmond Valley Council, and will be updated during December 2020 with the latest information.</p> <p>UPDATE: The work by Richmond Valley Council to update their flood model is progressing well, with modelling expected to be completed within the first quarter of the 21/22 FY. RCC's requirements for the flood modelling around the Tuckombil Canal are expected to be met and reported back during the same period.</p> <p>UPDATE: Council staff received an update on the project from the consultants in early September 2021. The model development is nearing its conclusion and work will commence on modelling scenarios soon.</p> <p>UPDATE: Richmond Valley Council (RVC) staff have advised that the consultants have finalised the flood model and are now in the reporting phase. A draft Study report will go to RVC in the first quarter of 2022.</p> <p><u>When the flood model is finalised, Rous will be able to consider the results and how a review of the Tuckombil Canal fixed weir would be financed.</u></p> <p>UPDATE: The February 2022 floods since the last update have meant that the flood model finalisation and reporting to Richmond Valley Council (RVC) have been delayed. A new date for its finalisation is not yet available from RVC. Once the flood model is finalised, Rous will be able to consider the results and how a review of the Tuckombil Canal fixed weir would be financed.</p>

Document is Restricted

Notice of Motion

Browns Creek Pump Station on the Lismore Levee

I hereby move:

That Council provide the following information to Lismore City Council in relation to the Browns Creek Pump Station on the Lismore Levee:

1. Additional works able to be undertaken to ensure that pumps are not damaged or blocked during operation.
2. Options, including estimated costs, available to Lismore City Council to increase pump capacity, improve pump reliability during and after a flood when electricity supply is often unavailable, and improve pump availability for regular service, particularly following flood events.
3. Recommendations to assist Lismore City Council to increase the capacity, reliability and resilience of the Browns Creek Pump Station.
4. Opportunities to jointly seek immediate grant funding through State and Federal channels to increase the capacity, reliability and resilience of the Browns Creek Pump Station.

Signed: Councillor Big Rob

Date: 26 May 2022

Staff comment

With reference to the four points above, Council staff can contact relevant Lismore City Council (LCC) staff and collaboratively work to investigate additional options and works which may be appropriate to improve the overall capacity, reliability and resilience of the Browns Creek Pump Station. A report will be provided to Council on the outcomes of this work and any recommendations.

This work would continue from the work that has occurred since the February 2022 floods. As per the Memorandum of Understanding (MOU) in place between Council and LCC for the management of the Lismore Levee Scheme, since the flood, Council staff and LCC staff have worked together to carry out inspections of the levee system and its components, identify damaged assets and provide information to Public Works Advisory (PWA) for provision of funding under the Natural Disaster Funding Arrangements (NDFA) in place. Repairs and replacement works for the levee scheme assets will be managed by LCC, with Council managing the interactions with PWA around the funding provision.