

**ITEM 5. AMENDMENT TO THE CITY'S CODE OF CONDUCT**

**FILE NO: S121910**

**SUMMARY**

Section 440 of the *Local Government Act 1993* (the Act) provides that all Councils must adopt a Code of Conduct (the Code) that incorporates the provisions of the Model Code of Conduct for Local Councils in NSW as issued by the Office of Local Government (OLG). The Code outlines the minimum requirements of conduct for council officials carrying out their functions.

A code of conduct has been in place in Council since 2005 when the first Code of Conduct for Councils in NSW (Model Code) came into effect. Council reviewed and adopted amended Codes in 2005, 2009 and 2013. Each review incorporated amended provisions to the Model Code prescribed by the Office of Local Government (OLG).

On 13 November 2015, amendments were made to the Act by the *Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015*. The amendments are in relation to: the suspension and disqualification of Councillors; the expansion of the definition of misconduct by Councillors; and Councillors' involvement in any consideration of an environmental planning instrument applying to the whole or significant part of the local government area if they have significant non-pecuniary conflicts of interests.

On 13 November 2015, the Model Code was also amended to include an additional paragraph of text in clause 4.29. This paragraph clarifies the circumstances under which a Councillor can participate in the consideration of a decision to make, amend, alter or repeal an environmental planning instrument if they have a significant non-pecuniary conflict of interests in the outcome.

To ensure compliance with section 440 of the *Local Government Act 1993*, amendments have been made to clause 4.29 of Council's current Code to incorporate the additional text included in the Model Code as issued by the OLG (Attachment A). The additions are shown in ***bold italics*** on page 10.

**RECOMMENDATION**

It is resolved that Council:

- (A) note the amendments to the *Local Government Act 1993* made to the *Local Government Amendment (Councillor Misconduct and Poor Performance) Act 2015*; as shown at Attachment B to the subject report; and
- (B) adopt the amended City of Sydney Code of Conduct, as shown at Attachment A to the subject report.

**ATTACHMENTS**

**Attachment A:** Amended City of Sydney Code of Conduct

**Attachment B:** Office of Local Government Circular 17 December 2015

**BACKGROUND**

1. Section 440 of the *Local Government Act* 1993 (the Act) provides that all Councils must adopt a Code of Conduct (the Code) that incorporates the provisions of the Model Code of Conduct for Local Councils in NSW as issued by the Office of Local Government (OLG).
2. The Model Code of Conduct for Councils in NSW (Model Code) first came into effect on 1 January 2005.
3. Council reviewed the Code in March 2005, March 2009, and February 2013 and in each instance incorporated the provisions from the Model Codes provided by the OLG.
4. On 13 November 2015, amendments were made to the Act by the *Local Government Amendment (Councillor Misconduct and Poor Performance) Act* 2015.
5. The main changes to the Act are outlined in the Circular from the OLG (Attachment B).
6. An additional paragraph was added to clause 4.29 of the Model Code to complement the amendment to the Act. The additional narrative provides further guidance to councillors with significant non-pecuniary conflicts of interests in the making, amendment, alteration or repeal an environmental planning instrument applying to the whole or a significant part of their local government area.
7. Council is required to review and amend its Code to reflect the amendment to the Model Code.

**KEY IMPLICATIONS**

8. As of 13 November 2015, Councillors who have previously been suspended on two or more occasions will be automatically disqualified from holding office in a council for five years if they are suspended on a further occasion.
9. The definition of misconduct has been expanded to include acts or omissions by Councillors that are intended to prevent the proper or effective functioning of a council or a committee of a council.
10. Councillors will no longer be permitted to participate in the consideration of the making, amendment, alteration or repeal of an environmental planning instrument applying to the whole or a significant part of the City of Sydney Local Government area in which they have pecuniary interests in unless:
  - (a) the only interests affected by the changes are the interests they or their relatives have in their principal places of residence; and
  - (b) they have made a special disclosure of the affected interests.
11. The amendment to the existing Code is incorporated in Attachment A.

**RELEVANT LEGISLATION**

12. The *Local Government Act* 1993.
13. The *Local Government Amendment (Councillor Misconduct and Poor Performance) Act* 2015.

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