

10 October 2024

At 5.30 pm

Extraordinary Council

Agenda

- 1. Oath or Affirmation of Office**
- 2. Statement of Ethical Obligations and Disclosures of Interest**
- 3. Election of Deputy Lord Mayor**
- 4. Council Committees - Functions, Membership, Election of Deputy Chairpersons**
- 5. Central Sydney Planning Committee - Election of Councillors**
- 6. Local Pedestrian, Cycling and Traffic Calming Committee - Policies and Procedures, Membership and Appointment of Chairperson**
- 7. Council Representation on Committees, Advisory Panels and Working Groups**
- 8. Council Representation on External Bodies - Southern Sydney Regional Organisation of Councils**
- 9. Local Government NSW Annual Conference 2024 - Nomination of Delegates**
- 10. Amendment to Schedule of Meetings**
- 11. Powers of Attorney**
- 12. Chief Executive Officer Performance Review Panel**
- 13. Filling A Casual Vacancy By Countback**
- 14. Adoption - Key City of Sydney Governance Documents**
- 15. Public Exhibition - Code of Meeting Practice and Councillors' Expenses and Facilities Policy**

Item 1**Oath or Affirmation of Office****Section 233A of the Local Government Act 1993 - Oath and affirmation for councillors**

Pursuant to the provisions of section 233A of the Local Government Act 1993, Councillors are required to take an oath of office or make an affirmation at or before the first meeting of the Council after the Councillor is elected.

The oath or affirmation may be taken or made before the general manager of the council, an Australian legal practitioner or a justice of the peace and is to be in the following form:

Oath

I [name of councillor] swear that I will undertake the duties of the office of councillor in the best interests of the people of the City of Sydney and the Council of the City of Sydney and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Affirmation

I [name of councillor] solemnly and sincerely declare and affirm that I will undertake the duties of the office of councillor in the best interests of the people of City of Sydney and the Council of the City of Sydney and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

Item 2

Statement of Ethical Obligations

In accordance with section 233A of the Local Government Act 1993, the Lord Mayor and Councillors are bound by the Oath or Affirmation of Office made at the start of the Council term to undertake their civic duties in the best interests of the people of the City of Sydney and the City of Sydney Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act 1993 or any other Act, to the best of their ability and judgement.

Disclosures of Interest

Pursuant to the provisions of the Local Government Act 1993, the City of Sydney Code of Meeting Practice and the City of Sydney Code of Conduct, Councillors are required to disclose and manage both pecuniary and non-pecuniary interests in any matter on the agenda for this meeting.

In both cases, the nature of the interest must be disclosed.

This includes receipt of reportable political donations over the previous four years.

Item 3**Election of Deputy Lord Mayor****File No: S062388****Memorandum by the Chief Executive Officer**

To Council:

Sections 231(1) and (2) of the Local Government Act 1993 (the Act) provide:

- (1) the councillors may elect a person from among their number to be the deputy mayor; and
- (2) the person may be elected for the mayoral term or a shorter term.

At the Council meeting of 18 September 2023, Councillor Robert Kok was elected Deputy Lord Mayor in accordance with the provisions of section 231 of the Local Government Act 1993 for a term commencing immediately and ending on the day appointed for the next ordinary election of Council (subsequently held on Saturday, 14 September 2024). The office of Deputy Lord Mayor is now vacant.

Payment of Fees

Section 249(5) of the Act provides:

- (5) a council may pay the deputy mayor (if there is one) a fee determined by the council for such time as the deputy mayor acts in the office of the mayor. The amount of the fee so paid must be deducted from the mayor's annual fee.

On 5 June 2000, Council resolved to:

“Pay Councillors the maximum of the range (as determined annually by the Local Government Remuneration Tribunal) as a matter of standing policy.

Pay the Lord Mayor the maximum of the range (in addition to the fee as a Councillor) - as a matter of standing policy (less the Deputy Lord Mayor's fee).

Pay the Deputy Lord Mayor, in addition to the fee as a Councillor, an amount equal to 10 per cent of the mayoral fee actually paid to the Lord Mayor as a matter of standing policy.”

Call for Nominations

Nominations for the office of Deputy Lord Mayor are now invited. Nominations must be made in writing by two or more Councillors (one of whom may be the nominee). Nomination forms will be provided to Councillors.

Conduct of Election

Schedule 7 of the Local Government (General) Regulation 2021 provides the method of conducting an election for Deputy Lord Mayor (further details on election procedures will be provided to Councillors). The last time the Deputy Lord Mayor's position was contested the method of voting selected by the Council was open, exhaustive voting.

Recommendation

It is resolved that:

- (A) Council elect a Deputy Lord Mayor for a term commencing immediately following the election and ending on 30 September 2025;
- (B) the method of voting be by open, exhaustive voting; and
- (C) the Chief Executive Officer conduct the election forthwith.

MONICA BARONE PSM

Chief Executive Officer

Item 4**Council Committees - Functions, Membership, Election of Deputy Chairpersons****File No: S062388****Memorandum by the Chief Executive Officer**

To Council:

In accordance with the provisions of section 360 of the Local Government Act 1993, the Local Government (General) Regulation 2021 and clause 19.2 of the City of Sydney Code of Meeting Practice (the Code), the council may establish such committees as it considers necessary.

In 2023, Council resolved to adopt meeting times, functions, policies and procedures of the following Committees:

- Corporate, Finance, Properties and Tenders Committee
- Environment Committee
- Housing For All Committee
- Cultural and Creative Committee
- Resilient Communities and Economy Committee
- Transport, Heritage and Planning Committee.

Committee Structure

Following a review of the administrative arrangements associated with Council's existing Committee structure, a number of amendments are recommended. The following Committees are recommended:

- Corporate, Finance, Properties and Tenders Committee
- Environment and Climate Change Committee
- Cultural, Creative and Nightlife Committee
- Equity and Housing Committee
- Community Services and Facilities Committee
- Innovation, Business and Economy Committee
- Transport, Heritage and Planning Committee

This updated Committee structure has necessitated the amendment and revision of the functions of each of the Committees.

The functions and administrative arrangements associated with Council's committees are detailed in the "Functions, Delegations, Policies and Procedures of Council Committees" (refer Attachment A). This document has been amended to reflect the changes in Committee structure detailed above

Election of Deputy Chairpersons

Council may elect a Deputy Chairperson of each Committee in accordance with clauses 19.15 and 19.16 of the Code of Meeting Practice.

Previously, the Council has chosen to hold a separate election for each of the Deputy Chairperson positions. Elections were conducted by open, exhaustive voting (that is, by a show of hands or similar means for candidates duly nominated).

At the Council meeting of 18 September 2023, Council elected Deputy Chairpersons for each of Council's Committees for a term commencing immediately and ending on ending on the day appointed for the next ordinary election of Council (subsequently held on 14 September 2024); with the Lord Mayor chairing all Committees.

Council will be required to elect a Deputy Chairperson for each of the following Committees for the new term of office commencing immediately and ending on ending on the day appointed for the next ordinary election of Council:

1. Corporate, Finance, Properties and Tenders Committee
2. Environment and Climate Change Committee
3. Cultural, Creative and Nightlife Committee
4. Equity and Housing Committee
5. Community Services and Facilities Committee
6. Innovation, Business and Economy Committee
7. Transport, Heritage and Planning Committee

Recommendation

It is resolved that:

- (A) the Functions, Delegations, Policies and Procedures of Council Committees, as shown at Attachment A to the subject Memorandum, be endorsed and adopted;
- (B) Council elect the Deputy Chairpersons of the Corporate, Finance, Properties and Tenders Committee, Environment and Climate Change Committee, Cultural, Creative and Nightlife Committee, Equity and Housing Committee, Community Services and Facilities Committee, Innovation, Business and Economy Committee and Transport, Heritage and Planning Committee for a term commencing immediately following the election and ending on the day appointed for the next ordinary election of Council;
- (C) the method of voting be open, exhaustive voting; and
- (D) the Chief Executive Officer conduct the election forthwith.

MONICA BARONE PSM

Chief Executive Officer

Attachments

Attachment A. Functions, Delegations, Policies and Procedures of Council Committees

Attachment A

**Functions, Delegations, Policies and
Procedures of Council Committees**

CORPORATE, FINANCE, PROPERTIES AND TENDERS COMMITTEE

- Meeting Time: Monday 1.00pm
- Venue: Council Chamber
- Chairperson: The Lord Mayor – Councillor Clover Moore AO
- Deputy Chairperson: [To be confirmed]
- Members: Councillor Sylvie Ellsmore
Councillor Lyndon Gannon
Councillor Robert Kok
Councillor Zann Maxwell
Councillor Jess Miller
Councillor Matthew Thompson
Councillor Yvonne Weldon AM
Councillor Mitch Wilson
Councillor Adam Worling
- Quorum: A majority of the members of the Committee
- Functions: To deal with all matters relating to:
- (a) Finance
 - (b) Consideration of budgets and quarterly budget performance
 - (c) Information technology policy
 - (d) Asset management
 - (e) Internal and external audit
 - (f) Fees and charges
 - (g) Rating matters
 - (h) City operational and property investment facilities
 - (i) Industrial relations
 - (j) Organisational policy
 - (k) City property management, including management, maintenance, leasing, licensing and sale of Council property
 - (l) Tenders valued at over \$5 million

ENVIRONMENT AND CLIMATE CHANGE COMMITTEE

- Meeting Time: At the conclusion of the meeting of the Corporate, Finance, Properties and Tenders Committee
- Venue: Council Chamber
- Chairperson: The Lord Mayor – Councillor Clover Moore AO
- Deputy Chairperson: [[To be confirmed]
- Members: Councillor Sylvie Ellsmore
Councillor Lyndon Gannon
Councillor Robert Kok
Councillor Zann Maxwell
Councillor Jess Miller
Councillor Matthew Thompson
Councillor Yvonne Weldon AM
Councillor Mitch Wilson
Councillor Adam Worling
- Quorum: A majority of the members of the Committee
- Functions: To deal with all matters relating to:
- (a) Environmental management
 - (b) Parks, playgrounds and open spaces
 - (c) City greening
 - (d) Cleansing, waste recycling, and the circular economy
 - (e) Urban infrastructure, including roads, footpaths, lighting, stormwater and drainage
 - (f) Cycleways
 - (g) Sustainability
 - (h) Resilience
 - (i) Grants and sponsorships related to the above

CULTURAL, CREATIVE AND NIGHTLIFE COMMITTEE

Meeting Time: At the conclusion of the Environment and Climate Change Committee

Venue: Council Chamber

Chairperson: The Lord Mayor – Councillor Clover Moore AO

Deputy Chairperson: [To be confirmed]

Members: Councillor Sylvie Ellsmore
Councillor Lyndon Gannon
Councillor Robert Kok
Councillor Zann Maxwell
Councillor Jess Miller
Councillor Matthew Thompson
Councillor Yvonne Weldon AM
Councillor Mitch Wilson
Councillor Adam Worling

Quorum: A majority of the members of the Committee

Functions: To deal with all matters relating to:

- (a) Arts, culture, film, creative industries and creative practice
- (b) Cultural events, programs and activities
- (c) Cultural and creative spaces and venue management
- (d) Nightlife activities, programs, and events
- (e) Night time management and safety
- (f) Nightlife industries and the night time economy
- (g) Assistance to cultural organisations
- (h) Grants and sponsorships related to the above

EQUITY AND HOUSING COMMITTEE

Meeting Time: At the conclusion of the meeting of the Cultural, Creative and Nightlife Economy Committee

Venue: Council Chamber

Chairperson: The Lord Mayor – Councillor Clover Moore AO

Deputy Chairperson: [To be confirmed]

Members: Councillor Sylvie Ellsmore
Councillor Lyndon Gannon
Councillor Robert Kok
Councillor Zann Maxwell
Councillor Jess Miller
Councillor Matthew Thompson
Councillor Yvonne Weldon AM
Councillor Mitch Wilson
Councillor Adam Worling

Quorum: A majority of the members of the Committee

Functions: To deal with all matters relating to:

- (a) Affordable and diverse housing
- (b) Social housing
- (c) Community housing
- (d) Homelessness
- (e) Social, cultural and economic disadvantage
- (f) Diversity and inclusion
- (g) Grants and sponsorships related to the above

COMMUNITY SERVICES AND FACILITIES COMMITTEE

Meeting Time: At the conclusion of the Equity and Housing Committee

Venue: Council Chamber

Chairperson: The Lord Mayor – Councillor Clover Moore AO

Deputy Chairperson: [To be confirmed]

Members: Councillor Sylvie Ellsmore
Councillor Lyndon Gannon
Councillor Robert Kok
Councillor Zann Maxwell
Councillor Jess Miller
Councillor Matthew Thompson
Councillor Yvonne Weldon AM
Councillor Mitch Wilson
Councillor Adam Worling

Quorum: A majority of the members of the Committee

Functions: To deal with all matters relating to:

- (a) Community facilities
- (b) Community services and safety
- (c) Aquatic and Recreation services
- (d) Child care services
- (e) Library services
- (f) Assistance to community organisations
- (g) Grants and sponsorships related to the above

INNOVATION, BUSINESS AND ECONOMY COMMITTEE

Meeting Time: At the conclusion of the Community Services and Facilities Committee

Venue: Council Chamber

Chairperson: The Lord Mayor – Councillor Clover Moore AO

Deputy Chairperson: [To be confirmed]

Members: Councillor Sylvie Ellsmore
Councillor Lyndon Gannon
Councillor Robert Kok
Councillor Zann Maxwell
Councillor Jess Miller
Councillor Matthew Thompson
Councillor Yvonne Weldon AM
Councillor Mitch Wilson
Councillor Adam Worling

Quorum: A majority of the members of the Committee

Functions: To deal with all matters relating to:

- (a) Innovation
- (b) Economic development and strategy
- (c) Global city relationships, trade and marketing
- (d) Local economies
- (e) Small business
- (f) Visitor economy
- (g) Grants and sponsorships related to the above

TRANSPORT, HERITAGE AND PLANNING COMMITTEE

- Meeting Times: At the conclusion of the Innovation, Business and Economy Committee
- Venue: Council Chamber
- Chairperson: The Lord Mayor – Councillor Clover Moore AO
- Deputy Chairperson: [To be confirmed]
- Members: Councillor Sylvie Ellsmore
Councillor Lyndon Gannon
Councillor Robert Kok
Councillor Zann Maxwell
Councillor Jess Miller
Councillor Matthew Thompson
Councillor Yvonne Weldon AM
Councillor Mitch Wilson
Councillor Adam Worling
- Quorum: A majority of the members of the Committee
- Functions: To deal with all matters relating to:
- (a) Planning instruments (i.e. LEPs, DCPs, Policies)
 - (b) Transport, access and walkability initiatives and issues
 - (c) Parking policy
 - (d) Traffic and the Local Pedestrian, Cycling and Traffic Calming Committee
 - (e) Referrals from other authorities for comment on any of the above matters
 - (f) Outdoor dining
 - (g) Grants and sponsorships related to the above

POLICIES AND PROCEDURES OF COMMITTEES

- (a) The structure and functions of Committees is standing policy of Council.
- (b) All correspondence from, or to, all Committees, shall be handled through normal Council processes.
- (c) All Committees shall be advisory to Council and have no independent role, except where specific authorities are delegated to them by Council.
- (d) Matters dealt with in Committees shall be submitted to Council without recommendation only when the chairperson so determines.
- (e) The chairperson of Committees shall have a casting vote in the event of an equality of voting.

Item 5**Central Sydney Planning Committee - Election of Councillors****File No: S062388****Memorandum by the Chief Executive Officer**

To Council:

The Central Sydney Planning Committee (CSPC) is constituted by the City of Sydney Act 1988 (the Act).

Section 34(1) of the Act provides that the Committee shall consist of seven members:

- (a) the Lord Mayor of Sydney;
- (b) two councillors of the City of Sydney elected by the City Council; and
- (c) four persons (two of whom are senior State government employees and two of whom are not State or local government employees) appointed by the Minister administering Part 4 of the Planning Act, each having expertise in at least one of architecture, building, civic design, construction, engineering, transport, tourism, the arts, planning or heritage.

The persons currently appointed by the Minister pursuant to clause (c) as members and alternate members are David Gainsford and Anthea Sargeant.

The Department of Planning, Housing and Infrastructure have advised that the Minister will appoint the remaining members and alternate members shortly.

Previously, the Council has chosen to hold a separate election for each of the two Council-elected members; the elections were by open, exhaustive voting (that is, by a show of hands or similar means for candidates duly nominated). At the Council meeting of 18 September 2023, Council elected Councillors HY William Chan and Adam Worling to the two positions on the Central Sydney Planning Committee, effective immediately until the day appointed for the next ordinary election of Council.

The Act provides that Council may appoint an alternate for each of the elected members. At the Council meeting of 18 September 2023, Council appointed Councillor Sylvie Ellsmore as alternate to Councillor Chan and Councillor Robert Kok as alternate to Councillor Worling until the day appointed for the next ordinary election of Council.

Recommendation

It is resolved that:

- (A) Council elect two Councillors to be members of the Central Sydney Planning Committee commencing immediately following the election and ending on 30 September 2026;
- (B) the method of voting be open, exhaustive voting;
- (C) the Chief Executive Officer conduct the election forthwith; and
- (D) Council appoint alternates for each member elected.

MONICA BARONE PSM

Chief Executive Officer

Item 6**Local Pedestrian, Cycling and Traffic Calming Committee - Policies and Procedures, Membership and Appointment of Chairperson****File No: S062388****Memorandum by the Chief Executive Officer**

To Council:

The Local Pedestrian, Cycling and Traffic Calming Committee is a statutory committee, established under the Roads Act 1993 and in accordance with administrative procedures required by Transport for NSW.

Councils have been delegated certain powers by Transport for NSW regarding the regulation of traffic on local roads. A condition of this delegation is that councils must take into account the advice of their Local Pedestrian, Cycling and Traffic Calming Committee before exercising certain powers.

The Local Pedestrian, Cycling and Traffic Calming Committee has no decision-making powers. It is primarily a technical review body which is required to advise Council and City staff on traffic-related matters. Council and City staff are therefore not bound or required to implement a proposal supported by the Local Pedestrian, Cycling and Traffic Calming Committee. Any proposal supported by the Local Pedestrian, Cycling and Traffic Calming Committee must be approved by either the elected Council or authorised City staff (depending on the nature of the proposal) if it is to be implemented. This can only be done when the advice of the Committee is unanimous. Where the advice of the Committee is not unanimous, Council must separately notify Transport for NSW and NSW Police.

The Local Pedestrian, Cycling and Traffic Calming Committee is made up of four formal (voting) members as follows:

- one representative of Council (Chairperson or alternate Chairperson);
- one representative of NSW Police;
- one representative of Transport for NSW;
- the local State Member of Parliament (MP) or their nominee; and
- one representative of a relevant NSW Government agency (where applicable)*.

Representatives of NSW Police and State MPs can only vote on matters in their respective command or electorate.

*The NSW Government agencies are formal (voting) members for matters relating to roads over which they have jurisdiction only (for example, Property NSW / Place Management NSW / Infrastructure NSW). The City of Sydney Council is not a formal (voting) member for these matters.

The Chairperson and alternate Chairperson are to be determined by Council, and Council's representative may be any Councillor or City staff. Council (in consultation with the formal members of the Local Pedestrian, Cycling and Traffic Calming Committee) may also decide to have additional informal (non-voting) representatives who can provide non-binding input on matters under consideration. Informal (non-voting) members of the Local Pedestrian, Cycling and Traffic Calming Committee are as follows:

- Bus operators representative(s);
- Transport Workers Union representative;
- Cycling representative;
- Pedestrian representative; and
- Local Health District representative.

City staff convene meetings and provide administrative support for the Committee, including the preparation of agendas, reports and minutes, and formally represent Council when both the Chairperson and the alternate Chairperson are absent.

The Policies and Procedures of the Local Pedestrian, Cycling and Traffic Calming Committee are set out in Attachment A. At the Council meeting of 18 September 2023 Councillor HY William Chan and Councillor (Waskam) Emelda Davis were appointed Chairperson and alternate Chairperson of the Local Pedestrian, Cycling and Traffic Calming Committee respectively for a term commencing immediately and ending on the day appointed for the next ordinary election of Council (subsequently held on Saturday, 14 September 2024).

Council is now required to appoint a Chairperson and alternate Chairperson for the new term of office commencing immediately and ending on the day appointed for the next ordinary election of Council.

Recommendation

It is resolved that:

- (A) the Policies and Procedures of the Local Pedestrian, Cycling and Traffic Calming Committee, as contained in Attachment A to the subject Memorandum, be endorsed and adopted;
- (B) the informal (non-voting) representatives to the Local Pedestrian, Cycling and Traffic Calming Committee, as outlined in the subject Memorandum, be endorsed;
- (C) Council appoint Councillor _____ as the Chairperson of the Local Pedestrian, Cycling and Traffic Calming Committee for a term effective immediately and ending on the day appointed for the next ordinary election of Council; and
- (D) Council appoint Councillor _____ as the alternate Chairperson of the Local Pedestrian, Cycling and Traffic Calming Committee, for a term effective immediately and ending on the day appointed for the next ordinary election of Council.

MONICA BARONE PSM

Chief Executive Officer

Attachment

Attachment A. Policies and Procedures of the Local Pedestrian, Cycling and Traffic Calming Committee

Attachment A

**Policies and Procedures of the Local
Pedestrian, Cycling and Traffic Calming
Committee**

LOCAL PEDESTRIAN, CYCLING AND TRAFFIC CALMING COMMITTEE

The Local Pedestrian, Cycling and Traffic Calming Committee is a statutory committee, established under the Roads Act 1993 and in accordance with administrative procedures established by Transport for NSW.

Chairperson To be determined

Alternate Chairperson To be determined

Members

There are four formal members of the Traffic Committee:

(a) Four formal (voting) representatives, one from each of the following:

- City of Sydney Council (Chairperson)
- NSW Police Service
- Transport for NSW
- Local State Members of Parliament or their nominee.
- NSW Government Agencies**

Note: representatives of the NSW Police Service and representatives of State MPs can only vote on issues in their command or electorate respectively.

**The NSW Government agencies are formal (voting) members for matters relating to roads over which they have jurisdiction only (for example, Property NSW / Place Management NSW / Infrastructure NSW). The City of Sydney Council is not a formal (voting) member for these matters.

(b) Informal (non-voting) representatives, where relevant, from each of the following:

- Bus operator representative(s)
- Transport Workers Union representative
- Cycling representative
- Pedestrian representative
- Local Health District representative

The Chairperson and their alternate shall be determined by Council. The views of informal members are considered but not binding.

Administration

City staff convene meetings and provide administrative support for the Committee, including the preparation of agendas, reports and minutes, and formally represent Council when both the Chairperson and the alternate are absent.

Function

Council has been delegated certain powers from Transport for NSW with regard to traffic matters on local roads. A condition of this delegation is that Council must take into account the advice of the Local Pedestrian, Cycling and Traffic Calming Committee before exercising certain powers. The Local Pedestrian, Cycling and Traffic Calming Committee has no decision-making powers. It is primarily a technical review body which is required to advise Council on traffic related matters. All proposals recommended by the Local Pedestrian, Cycling and Traffic Calming Committee must still be formally approved by either the elected Council or authorised City staff (depending on the nature of the proposal). This can only be done when the advice of the Committee is unanimous. Where the advice of the Committee is not unanimous, Council must separately notify Transport for NSW and the NSW Police.

Meetings/Attendance

The Local Pedestrian, Cycling and Traffic Calming Committee generally meets every third Thursday of the month at 10am in the Council Chamber, Level 1, Sydney Town Hall, George Street, Sydney (or as advised). Members of the public are welcome to attend and speak to an item on the Local Pedestrian, Cycling and Traffic Calming Committee agenda. Addresses to the Committee are limited to three minutes, but this can be extended at the discretion of the Chairperson. If a member of the public wishes to attend, it is requested that they inform the Committee Secretary in advance on 9265 9648.

Item 7**Council Representation on Committees, Advisory Panels and Working Groups****File No: S111818****Memorandum by the Chief Executive Officer**

To Council:

Council has established a number of committees, advisory panels and working groups with Council appointed Councillor representatives that provide advice on the policies and operations of the City of Sydney across various subject areas.

Following the local government elections, it is appropriate to appoint new Council representatives for a term commencing immediately and ending on the day appointed for the next ordinary election of Council.

These committees, advisory panels and working groups are specifically an opportunity for input and engagement. They are not constituted as a committee of Council under the Local Government Act 1993, nor a sub-committee of the Central Sydney Planning Committee under the City of Sydney Act 1988.

Aboriginal and Torres Strait Islander Advisory Panel

The Aboriginal and Torres Strait Islander Advisory Panel's purpose is to provide advice on the policies and operations of the City of Sydney in relation to matters of importance to Aboriginal and Torres Strait Islander communities

Business, Economic Development and Covid Recovery Advisory Panel

The Business, Economic Development and Covid Recovery Advisory Panel's purpose is to provide high-level independent expert advice to the City of Sydney on the implementation of Sustainable Sydney 2030-2050 Continuing the Vision and through the actions of the City of Sydney Economic Strategy Discussion Paper.

Cultural and Creative Sector Advisory Panel

The Cultural and Creative Sector Advisory Panel's purpose is to provide strategic advice on making space for culture and focus on addressing the loss of creative employment floor space in Sydney which is a critical issue that has been exacerbated by the pandemic.

Cycling Advisory Committee

The Cycling Advisory Committee's purpose is to monitor progress on implementation of the Cycling Strategy and Action Plan and provide advice on issues associated with implementation of the Cycling Strategy and Action Plan.

Housing for All Working Group

The Housing for All Working Group's purpose is to bring together industry leaders and experts to share knowledge and provide strategic, expert advice and guidance to the City of Sydney (the City) on the development of agreed strategies and initiatives to increase the supply of affordable and diverse housing (including social housing) within the City of Sydney Local Government Area.

Inclusion (Disability) Advisory Panel

The Inclusion (Disability) Advisory Panel's purpose is to provide strategic, expert and impartial advice to the City on the development, implementation, monitoring and review of the City's policies, strategies and plans to advance the inclusion of people with disability.

Multicultural Advisory Panel

The Multicultural Advisory Panel's purpose is to provide advice on policies and operations of the City of Sydney in relation to matters of importance to culturally diverse communities.

Terms of Reference and Priorities Review

The terms of reference and functions (inclusive of the priority activities) of all committees, advisory panels and working groups are under review to ensure that they are fit for purpose, to improve consistency and to strengthen diversity of panel members. Recommendations for updates, which will include additional inclusions of a focus on late night vibrancy and LGBTIQ+ matters will be reported to Council for consideration.

Environment and Climate Change Advisory Panel

It is proposed that an Environment and Climate Change Advisory Panel be established. The purpose and priorities of the Environment and Climate Change Advisory Panel will include the review of the Environmental Strategy, waste and recycling, electrification and resilience (inclusive of canopy and heat). Terms of reference will be developed for Council consideration. Council's representative to the new advisory panel will be appointed at the same time as the terms of reference are considered by Council.

Recommendation

It is resolved that:

- (A) the Chief Executive Officer be requested to review the terms of reference, inclusive of the priority activities of each committee, advisory panel and working group and report revised terms of reference to Council for consideration with additional inclusions of a focus on late night vibrancy and LGBTIQ+ matters;
- (B) Council endorse the establishment of the Environment and Climate Change Advisory Panel;
- (C) authority be delegated to the Chief Executive Officer to prepare terms of reference for the Environment and Climate Change Advisory Panel for Council consideration; and

- (D) Council appoint the following Councillors as Council’s representatives on the Committees, Advisory Panels and Working Groups listed below:

Aboriginal and Torres Strait Islander Advisory Panel

- (i) Councillor.....

Business, Economic Development and Covid Recovery Advisory Panel

- (ii) Councillor

Cultural and Creative Sector Recovery Advisory Panel

- (iii) Councillor.....

Cycling Advisory Committee

- (iv) Councillor

Housing for All Working Group

- (v) Councillor

Inclusion (Disability) Advisory Panel

- (vi) Councillor

Multicultural Advisory Panel

- (vii) Councillor.....

MONICA BARONE PSM

Chief Executive Officer

Item 8**Council Representation on External Bodies - Southern Sydney Regional Organisation of Councils****File No: S111818****Memorandum by the Chief Executive Officer**

To Council:

The Lord Mayor and Councillors represent the City of Sydney on the Southern Sydney Regional Organisation of Councils (SSROC).

Following the local government elections, it is appropriate to appoint new Council representatives to SSROC for a term commencing immediately and ending on the day appointed for the next ordinary election of Council.

Established in 1986, SSROC is a voluntary regional grouping of councils located in the southern Sydney metropolitan area. SSROC provides a forum for member councils to deal with common issues, particularly those that cross local government area boundaries. Key areas of focus include planning, environment, transport, sustainability, procurement and waste management.

The City is represented by either elected Councillors or Council staff on the Southern Sydney Regional Organisation of Councils (SSROC).

Council is entitled to nominate two delegates and two alternate delegates to SSROC.

Recommendation

It is resolved that Council appoint the following Councillors as Council's representatives on the Southern Sydney Regional Organisation of Councils (SSROC):

(A) Councillors _____ and _____ (2 delegates); and

(B) Councillors _____ and _____ (2 alternates).

MONICA BARONE PSM

Chief Executive Officer

Item 9

Local Government NSW Annual Conference 2024 - Nomination of Delegates

File No: X094806

Memorandum by the Chief Executive Officer

To Council:

This memorandum seeks Council's consideration of the nomination of Councillors as voting delegates to the Local Government NSW (LGNSW) Annual Conference, to be held from Sunday 17 to Tuesday 19 November 2024 at the Tamworth Regional Entertainment and Conference Centre.

The conference is the main policy-making event for the local government sector. Delegates will vote on motions which determine the policies and priorities for Local Government NSW and the sector.

The draft conference program is available at: <https://lgnswconference.org.au/program/>.

Councillors will receive email notifications directly from Local Government NSW, but should direct questions or requests to Secretariat, who will coordinate and manage all arrangements with Local Government NSW on behalf of Councillors, including conference registrations and voting registrations.

Registration as a Voting Delegate

The City of Sydney will be entitled to register up to 10 voting delegates for motions. It is proposed that Council nominates the Lord Mayor and all Councillors as voting delegates.

Voting delegates may not appoint a proxy to attend or vote at formal business sessions on their behalf. Registrations for voting on motions will be managed by Secretariat.

Conference Program/Motions

The conference will include discussion and debate on a range of motions from councils relating to current and emerging policy issues facing local government in NSW.

The Local Government NSW Policy Platform at: <https://www.lgnsw.org.au/policy/policy-platform> consolidates the numerous policies and positions of Local Government NSW – as determined by members – into a single document for ease of reference for members and stakeholders.

The full conference business paper is expected to be available one week prior to the conference and will include three motions submitted by the City of Sydney.

Councillors' Expenses and Facilities Policy

Councillors Davis, Ellsmore, Gannon, Jarrett, Scott, Weldon and Worling were the City of Sydney delegates at the 2023 Local Government NSW Annual Conference held at Rosehill Gardens Racecourse in Parramatta.

Expenditure incurred for the conference totalled \$8,625.47. The Councillors' Expenses and Facilities Policy provides for Councillors to attend the Local Government NSW Annual Conference at the City's expense. Funds are available in the 2024/25 operating budget to cover registration fees, travel and other reasonable expenses incurred by Councillors.

Recommendation

It is resolved that:

- (A) Council appoint the Lord Mayor and all Councillors as its voting delegates at the Local Government NSW Annual Conference, to be held at Tamworth Regional Entertainment and Conference Centre, from Sunday 17 to Tuesday 19 November 2024;
- (B) Council note all registration fees, travel costs and other reasonable expenses associated with the attendance of Councillors at the Local Government NSW Annual Conference will be met by the City in accordance with the Councillors' Expenses and Facilities Policy; and
- (C) Council note that a spouse, partner or other person may accompany a Councillor at the conference, and the City will meet any associated ticket costs.

MONICA BARONE PSM

Chief Executive Officer

Item 10**Amendment to Schedule of Meetings****File No: S063444-02****Memorandum by the Chief Executive Officer**

To Council:

This memorandum requests that Council approve an amendment to the schedule of meetings for 2024.

Local government elections were held on 14 September 2024, with results declared on 1 and 2 October 2024.

The Chief Executive Officer has been requested to prepare a two-week meeting cycle (Council Committees and Council) rather than the previously endorsed three-week meeting cycle (Council Briefings, Committees and Council).

It is anticipated that relevant Council briefings will now be held as part of Council Committees, which will be scheduled to commence earlier to accommodate this update.

Accordingly, the 2024 schedule of meetings has been amended to reflect this change.

The City's website will be updated with amended 2024 meeting dates if endorsed by Council.

Additional Councillor workshop sessions, intended to accommodate such matters as external presentations, professional development and other non-meeting agenda items, will be scheduled and separately distributed to Councillors as required.

Recommendation

It is resolved that Council adopt the amended schedule of meetings for 2024, as shown at Attachment A to the subject memorandum.

MONICA BARONE PSM

Chief Executive Officer

Attachments**Attachment A.** Amended Schedule of Meetings for 2024

Attachment A

Amended Schedule of Meetings for 2024

SCHEDULE OF MEETINGS FOR 2024	
DATE	MEETING
MONDAY 21 OCTOBER	• COMMITTEES
MONDAY 28 OCTOBER	• COUNCIL
MONDAY 11 NOVEMBER	• COMMITTEES
SUNDAY 17 NOVEMBER to TUESDAY 19 NOVEMBER	• LGNSW Annual Conference
MONDAY 25 NOVEMBER	• COUNCIL
MONDAY 9 DECEMBER	• COMMITTEES
MONDAY 16 DECEMBER	• COUNCIL
SCHOOL HOLIDAYS – Monday 23 December 2024 to Thursday 30 January 2025, inclusive	

The recess continues until the first Committee meetings of 2025.

Item 11**Powers of Attorney****File No: S115439****Memorandum by the Chief Executive Officer**

To Council:

A Resolution of Council is sought to:

1. revoke the existing power of attorney instrument dated 9 May 2023 registered Book 4813 and Number 285; and
2. grant a new power of attorney to each person occupying a role in the Executive of the Council from time to time.

Background

Historically Council has granted powers of attorney to certain senior staff to give effect to the decisions of Council.

In April 2023, Council granted a form of power of attorney, pursuant to which the Council appoints as attorney:

1. each person employed by the Council whose title includes the term “Director”; and
2. the Chief Operating Officer, Chief Financial Officer and Chief Executive Officer,

from time to time.

Effective from 1 October 2024, changes were made to Executive leadership position titles from Director to Executive Director. The position of Chief Financial Officer was also changed to Executive Director Finance and Procurement following the retirement of the City's Chief Financial Officer.

The title of Executive Director is only assigned to positions that lead the divisions of Council staff. Accordingly, a new form of power of attorney is required, pursuant to which the Council appoints as attorney:

1. each person employed by the Council whose title includes the term “Executive Director”; and
2. the Chief Operating Officer and Chief Executive Officer,

from time to time.

Following the adoption of the new power of attorney by Council resolution the Lord Mayor will also need to issue a letter that can be updated as the members of the Executive change, as evidence of the identity of Council's Executive from time to time. The letter will be provided as evidence that the specific person using the power of attorney has the power to bind the Council.

The power of attorney will apply to each Executive Director as appointed and the letter will be updated each time there is a change of Executive Director.

It will also be necessary to revoke the power of attorney dated 9 May 2023 granted to:

1. each person employed by the Council whose title includes the term “Director”; and
2. the Chief Operating Officer, Chief Financial Officer and Chief Executive Officer of the Council,

from time to time.

Recommendation

It is resolved that:

Revocation of Power of Attorney

- (A) the power of attorney granted to each person each person employed by the Council of the City of Sydney whose title includes the term “Director” and the Chief Operating Officer, Chief Financial Officer and Chief Executive Officer of the City of Sydney from time to time be revoked in the form at Attachment A to the subject memorandum, which is to be executed under the Common Seal of Council.

Appointment of New Power of Attorney and Attorney List

- (B) a new power of attorney be granted to each person occupying a role in the Executive of Council from time to time, in the form shown at Attachment B to the subject memorandum, which is to be executed under the Common Seal of Council; and
- (C) the attorney list (setting out the current members of the Executive) as shown at Attachment C to the subject memorandum be signed by the Lord Mayor; and
- (D) authority be delegated to the Lord Mayor to sign and issue further versions of the attorney list when necessary due to change in the identity of people occupying a role in the Executive of Council.

MONICA BARONE PSM

Chief Executive Officer

Attachments

Attachment A. Revocation of Power of Attorney

Attachment B. New Power of Attorney

Attachment C. List of Attorneys

Attachment A

Revocation of Power of Attorney

Revocation of Power of Attorney

THE COUNCIL OF THE CITY OF SYDNEY constituted pursuant to section 220 of the *Local Government Act 1993* (NSW) **HEREBY REVOKES** the Power of Attorney dated 9 May 2023 appointing:

1. each person employed by the Council of the City of Sydney whose title includes the term "Director"; and
2. the Chief Operating Officer, Chief Financial Officer and Chief Executive Officer of the Council of the City of Sydney,

from time to time.

Registration number of the power of attorney is Book 4813 No 285.

This Instrument has been **EXECUTED** at Sydney this day of 2024

THE COMMON SEAL of SYDNEY)
CITY COUNCIL was affixed to this)
Instrument pursuant to resolution of)
Council passed on _____

in the presence of the Lord Mayor)
and the Councillor named below.) _____

Clover Moore AO, Lord Mayor

Signature of Councillor

Name of Councillor

Address of Councillor

Attachment B

New Power of Attorney

Power of Attorney

Dated / /

Principal

THE COUNCIL OF THE CITY OF SYDNEY ABN 22 636 550 790
constituted pursuant to section 220 of the *Local Government Act 1993*
(NSW) of Town Hall House, 456 Kent Street, Sydney NSW 2000

This deed poll witnesses

1. Appointment of Attorney

1.1 The Principal appoints:

1.1.1 each person employed by the Principal whose title includes the term “Executive Director”; and

1.1.2 the Chief Operating Officer and Chief Executive Officer of the Principal,

from time to time, joint and severally to be its attorney (each an **Attorney**) from the date of this document.

2. Specific Powers

2.1 The Attorney may do in the name of the Principal and on its behalf everything necessary or expedient to:

2.1.1 execute and deliver any Document;

2.1.2 give effect to or evidence any particular transaction, agreement, consent, approval or act approved or given by the Principal;

2.1.3 complete blanks and make amendments, alterations or additions to any Document; and

2.1.4 otherwise do anything which the Principal may lawfully do in exercising its functions, including the exercise of powers, authorities and discretions concerning any proposed or existing investment, transaction or dealing with respect to the Documents.

3. Reserved Power

The Attorney may not execute such documents that are required to be executed under the Common Seal of the Principal pursuant to any Act or any Regulation or Ordinance made pursuant to the Act.

4. Validity

The Principal declares that all acts, matters and things done by the Attorney in exercising powers under this document will be valid and effective as if they had been done by the Principal.

5. Ratification

The Principal agrees to ratify and confirm whatever an Attorney does in exercising powers under this document, including anything done between the revocation by any means of this document and such revocation becoming known to the Attorney.

6. Indemnity

The Principal indemnifies the Attorney, on demand, against any liability, loss, cost, charge or expense arising from the exercise of powers under this document. A demand may be made in advance of any liability, loss, cost, charge or expense being incurred if the Attorney determines there is a reasonable prospect of the amount be incurred or suffered by it.

7. Attorney's personal liability

The exercise by an Attorney of the powers and authorities conferred by this document does not involve any assumption by that Attorney, of personal liability in connection with the exercise of the powers and authorities or the consequences of so doing.

8. Person dealing in Good Faith

The Principal declares that a person (including a firm, body corporate, unincorporated association or authority) who deals with the Attorney in good faith may accept a written statement signed by the Attorney to the effect that this document has not been revoked as conclusive evidence of that fact.

9. Principal bound

The Principal declares that the Principal and a person (including a substitute or assign) claiming under the Principal are bound by anything the Attorney does in exercising powers under this document.

10. Definitions and Interpretation

10.1 Definitions

In this document:

Act means the *Local Government Act 1993* (NSW).

Document means:

- (a) all such deeds, instruments, agreements, memoranda, consents, acknowledgments, plans, forms and documents of whatever kind; and
- (b) without prejudice to the generality of the matters in sub- paragraph (a) above, all plans or instruments pursuant to the provisions of the *Real Property Act 1900* (NSW) which have been so approved for execution or which give effect to or evidence any particular transaction, agreement, consent, approval or act so approved or given.

10.2 Governing law and jurisdiction

This document is governed by the laws of New South Wales.

10.3 Persons

In this document, a reference to:

- 10.3.1 a person includes a firm, partnership, joint venture, association, corporation or other corporate body;
- 10.3.2 a person includes the legal personal representatives, successors and assigns of that person; and
- 10.3.3 any body which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the first-mentioned body.

10.4 This document, clauses and headings

In this document:

- 10.4.1 a reference to this or other document includes the document as varied or replaced regardless of any change in the identity of the parties;
- 10.4.2 a reference to writing includes all modes of representing or reproducing words in a legible, permanent and visible form;
- 10.4.3 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this document;
- 10.4.4 where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning; and
- 10.4.5 where the expression including or includes is used it means 'including but not limited to' or 'including without limitation'.

10.5 Severance

- 10.5.1 If a provision in this document is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable.
- 10.5.2 If it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this document.

10.6 Number and gender

In this document, a reference to:

10.6.1 the singular includes the plural and vice versa; and

10.6.2 a gender includes the other genders.

Signing Page

EXECUTED as a deed poll

PRINCIPAL

THE COMMON SEAL of THE COUNCIL OF THE)
CITY OF SYDNEY was affixed to this Instrument)
pursuant to resolution of Council passed on _____)
October 2024 in the presence of the Lord Mayor and
the Councillor named below:

.....
Clover Moore

.....
Signature of Councillor

.....
Name of Councillor

Attachment C

List of Attorneys

Council of the City of Sydney

Attorney List

I. Clover Moore AO, Lord Mayor of the Council of the City of Sydney (Council) certify that each of the persons below is an attorney of the Council for the purposes of the power of attorney of the Council dated [insert date] 2024:

Person	Position
	Executive Director People Performance & Technology
Emma Kathleen Rigney	Executive Director City Life
Veronica Anne Lee	Executive Director City Services
Graham John Jahn	Executive Director City Planning Development & Transport
Katharine Rachel Deacon	Executive Director Strategic Development & Engagement
Kirsten Tara Morrin	Executive Director Legal and Governance
	Executive Director Finance & Procurement
Kim Philip Woodbury	Chief Operating Officer
Patricia Monica Barone	Chief Executive Officer

Dated: 2024

Clover Moore AO, Lord Mayor

The City of Sydney acknowledges the Gadigal of the Eora Nation as the Traditional Custodians of our local area.

Item 12**Chief Executive Officer Performance Review Panel****File No: S095194.009****Memorandum by the Chief Executive Officer**

To Council:

Guidelines for the Appointment and Oversight of General Managers

Guidelines for the Appointment and Oversight of General Managers (Guidelines) have been issued by the Office of Local Government under section 23A of the Local Government Act 1993.

Under section 23A of the Act, councils must consider the Guidelines when exercising their functions in relation to the recruitment and oversight of general managers.

These Guidelines have been developed to assist councillors when performing their functions under the Act relating to the appointment of general managers and overseeing their performance. They provide guidance on:

- the role of the general manager and the importance of a good working relationship between councillors and the general manager;
- the recruitment process and the appointment of a general manager;
- day to day oversight of and liaison with the general manager;
- the performance review process;
- separation; and
- renewal of the general manager's contract

Chief Executive Officer Performance Review Panel

In accordance with the Guidelines and following the 14 September 2024 local government elections, a Chief Executive Officer Performance Review Panel (Panel) will be established.

The Panel will comprise of:

- the Lord Mayor;
- the Deputy Lord Mayor;
- a Councillor nominated by Council;
- a Councillor nominated by the Chief Executive Officer (note that the Chief Executive Officer will nominate a Councillor prior to the Panel convening); and

- an independent observer being the Chair of the Audit, Risk and Compliance Committee.

The role of the Panel includes:

- conducting performance reviews
- reporting the findings and recommendations of reviews to Council, and
- development of the performance agreement.

Members of the Panel will be required to undertake training. This training will be arranged and provided by the City and offered to all Councillors.

Councillors who are not members of the performance review panel may be invited to contribute to the performance review process by providing feedback to the Lord Mayor on the Chief Executive Officer's performance relevant to the agreed performance criteria. All Councillors will be notified of relevant dates in the performance review cycle and be kept advised of the Panel's findings and recommendations.

Recommendation

It is resolved that:

- (A) Council note the Guidelines for the Appointment and Oversight of General Managers as shown at Attachment A to the subject memorandum;
- (B) Council establish a Chief Executive Officer Performance Review Panel comprised of the Lord Mayor, the Deputy Lord Mayor, Councillor _____ (nominated by Council), a Councillor nominated by the Chief Executive Officer (note that that the Chief Executive Officer will nominate a Councillor prior to the convening of the Panel), and an independent observer being the Chair of the Audit, Risk and Compliance Committee;
- (C) authority be delegated to the Chief Executive Officer Performance Review Panel to undertake the Chief Executive Officer's performance review in accordance with the Guidelines; and
- (D) Council note that the Panel will report back to Council in a confidential session on the findings and recommendations of performance reviews as soon as practicable following any performance review.

MONICA BARONE PSM

Chief Executive Officer

Attachments

Attachment A. Guidelines for the Appointment and Oversight of General Managers

Attachment A

Guidelines for the Appointment and Oversight of General Mangers

Guidelines for the Appointment and Oversight of General Managers

2022



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INTRODUCTION

The *Local Government Act 1993* (the Act) requires councils to appoint a person to be the council's general manager (section 334).

One of the prescribed functions of the governing body of a council is to determine the process for the appointment of the general manager and to monitor their performance (section 223).

These Guidelines have been developed to assist councillors when performing their functions under the Act relating to the appointment of general managers and overseeing their performance. They provide guidance on:

- the role of the general manager and the importance of a good working relationship between councillors and the general manager
- the recruitment process and the appointment of a general manager
- day to day oversight of and liaison with the general manager
- the performance review process
- separation, and
- renewal of the general manager's contract.

These Guidelines are issued under section 23A of the Act and must be taken into consideration by councils when exercising their functions in relation to the recruitment and oversight of general managers. They should be read in conjunction with the relevant provisions of the Act and the *Local Government (General) Regulation 2021* (the Regulation) and the standard contract of employment for general managers approved by the Departmental Chief Executive of the Office of Local Government under section 338 of the Act (the approved standard contract).

ROLE OF THE GENERAL MANAGER

Councillors comprise the governing body of a council and make decisions by passing resolutions. It is the general manager's role to implement the lawful decisions of the council and to carry out the functions conferred on them by the Act and Regulation and other legislation.

General managers also perform other functions delegated to them by the governing body.

The governing body monitors the implementation of its decisions through the general manager's reports to council meetings.

Key functions of the general manager

The Act confers certain functions on general managers of councils (section 335). Key aspects of the general manager's role are set out below:

Management of the council

The general manager is responsible for conducting the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies approved by the governing body of the council and implementing without undue delay, lawful decisions of the governing body.

Assisting the governing body to set the strategic direction

The general manager also plays a key role in assisting the governing body to develop the council's strategic direction. The general manager is responsible for guiding the preparation of the community strategic plan and the council's response to it via the delivery program and operational plans. The general manager is also responsible for implementing the delivery program and operational plans and reports to the governing body on their

implementation. More information on this is available on the Office of Local Government's [website](#).

Determining the organisation structure

The general manager is responsible for determining the organisation structure of the council (other than senior staff positions) following consultation with the governing body and in accordance with the budget approved by the governing body (section 332). The positions within the organisation structure of the council must be determined to give effect to the priorities set out in the council's strategic plans, including the community strategic plan and delivery program.

Appointment and direction of staff

The general manager is responsible for the appointment and direction of staff and their dismissal. The general manager must consult with the governing body before appointing or dismissing senior staff.

Supporting councillors

The general manager is also responsible for ensuring councillors are provided with the information and the advice they require to make informed decisions and to carry out their civic duties.

The general manager should ensure that council meeting business papers contain sufficient information to allow councillors to make informed decisions and to allow them to effectively monitor and review the council's operations and performance. This will assist councils in ensuring they are complying with statutory requirements, keeping within the budget approved by the council, and achieving the strategic goals set by the council in its delivery program and operational Plan.

The governing body may direct the general manager to provide councillors with advice but

cannot direct them as to the content of that advice.

Requests by councillors for assistance or information outside of meetings should be made to the general manager unless the general manager has authorised another staff member to receive such requests. The *Model Code of Conduct for Local Councils in NSW* contemplates that councils should adopt a policy to provide guidance on interactions between councillors and staff. The policy should be agreed to by both the governing body and the general manager. To assist councils, the Office of Local Government has prepared a model councillor and staff interaction policy which reflects best practice. This is available on the Office of Local Government's [website](#).

The delegation of functions to the general manager

A governing body may delegate certain functions of the council to the general manager but cannot delegate the functions set out in section 377(1) of the Act. The delegation of a council's functions must be made by resolution and be evidenced in writing. Delegations must be reviewed during the first 12 months of each term of the council (section 380).

The general manager may sub-delegate a function delegated to them by the governing body (section 378). However, the general manager still retains responsibility to ensure that any sub-delegated function is carried out appropriately.

The importance of a good working relationship with the general manager

The position of general manager is pivotal in a council. It is the interface between the governing body which sets the strategic

direction of the council and monitors its performance, and the administrative body of the council, headed by the general manager, which implements the decisions of the governing body. A good working relationship between the general manager and the councillors is therefore critical for good governance and a well-functioning council. Where this relationship breaks down, this can quickly lead to dysfunction.

The Centre for Local Government at the University of Technology in Sydney has identified the following as key components of a good working relationship between councillors and the general manager:

- mutual trust and respect
- councillors publicly supporting the work of the general manager
- councillors dealing with any performance concerns through appropriate channels e.g., not the media or council meetings
- councillors not getting involved in the day-to-day operational matters of the council (which makes it difficult for the general manager to do their job)
- councillors having a clear understanding of how and when to approach the general manager or other staff for information or support and following agreed protocols
- regular meetings between the general manager, mayor and councillors to ask questions and share information and advice
- respect of confidentiality, and
- any conflict is dealt with professionally and quickly and where it can't be addressed informally, proper processes are followed.

RECRUITMENT AND SELECTION

Requirements of the *Local Government Act 1993*

One of the prescribed functions of the governing body of a council is to determine the process for the appointment of the general manager (section 223).

When recruiting a new general manager, the position must be advertised in a manner sufficient to enable suitably qualified persons to apply for the position (section 348).

As with the appointment of all council staff, councils must ensure that the appointment of the general manager is made using merit selection principles (section 349). Recruitment using merit selection is a competitive process where the applicant who demonstrates that they have the best qualifications and experience relevant to the role is appointed. Equal employment opportunity principles also apply to the recruitment of general managers (sections 349 and 344).

The recruitment process must be open and transparent, but the confidentiality of individual applicants must be maintained. A failure to maintain appropriate confidentiality may constitute a breach of the Act, the council's code of conduct and the *Privacy and Personal Information Protection Act 1998*.

Councils should engage an external recruitment consultant to assist them with the recruitment process and that person should have a role in verifying that proper processes and procedures are followed in the appointment of the general manager.

There are a range of possible approaches to undertaking the recruitment of the general manager. The guidance contained in these Guidelines reflects what the Office of Local Government considers to be best practice.

The pre-interview phase

As noted above, the council's governing body is responsible for determining the process for recruiting the general manager.

The governing body should delegate the task of recruitment to a selection panel led by the mayor and approve the recruitment process. The panel will report back to the governing body on the process and recommend the most meritorious applicant for appointment by the council.

The selection panel should consist of at least the mayor, the deputy mayor, another councillor and a suitably qualified person independent of the council. Where practicable, the selection panel membership should remain the same throughout the entire recruitment process.

Selection panels should, where possible, have a mix of genders.

The council's governing body should delegate to one person (generally the mayor) the task of ensuring:

- the selection panel is established
- the general manager's position description is current and evaluated in terms of salary to reflect the responsibilities of the position
- the proposed salary range reflects the responsibilities and duties of the position
- the position is advertised according to the requirements of the Act
- information packages are prepared, and
- applicants selected for interview are notified.

The mayor, or another person independent of council staff, should be the contact person for the position and should maintain confidentiality with respect to contact by potential applicants.

Interview phase

Interviews should be held as soon as possible after candidates are short listed.

Questions should be designed to reflect the selection criteria for the position and assist the selection panel to assess the suitability of the candidate for the position.

Interviews should be kept confidential.

All written references must be checked. The selection panel must delegate the task of contacting referees to one panel member. Other panel members should not contact referees.

If contact with someone other than a nominated referee is required, the applicant's permission must be sought.

At least 2 referees must be contacted and asked questions about the candidate relevant to the selection criteria.

Where tertiary qualifications are relied on, they should be produced for inspection and if necessary, for verification.

Appropriate background checks must be undertaken, for example, bankruptcy and criminal records checks and whether the candidate has been disqualified from managing a corporation by the Australian Securities and Investments Commission. For guidance on better practice recruitment background checks, see the Australian Standard AS 4811:2022 [Workforce Screening](#) and the Independent Commission Against Corruption's publication, *Strengthening employment screening practices in the NSW public sector* which is available on its [website](#).

Selection panel report

The selection panel is responsible for preparing a report to the council's governing body that:

- outlines the selection process

- recommends the most meritorious applicant with reasons
- recommends an eligibility list if appropriate
- recommends that no appointment is made if the outcome of interviews is that there are no suitable applicants.

This report should be confidential and reported to a closed meeting of the council.

The appointment of a general manager is a non-delegable function of the council under section 377 of the Act and a general manager cannot be appointed without a formal resolution of the council.

The council's governing body must by resolution approve the position of the general manager being offered to the successful candidate before the position is offered to the candidate.

Finalising the appointment

The mayor makes the offer of employment after the governing body has resolved to appoint the successful candidate. The initial offer can be made by telephone.

Conditions such as term of the contract (1-5 years) and remuneration package (within the range approved by the governing body of the council) can be discussed by telephone but must be confirmed in writing.

The standard contract of employment for general managers approved by the Departmental Chief Executive of the Office of Local Government under section 338 of the Act must be used. The approved standard contract is available on the Office's [website](#). The terms of the approved standard contract must not be varied. Only the term of the contract and the schedules to the approved standard contract can be adapted by councils.

General managers must be employed for 1–5 years.

The contract governs:

- the duties and functions of general managers
- performance agreements
- the process for renewal of employment contracts
- termination of employment and termination payments
- salary increases, and
- leave entitlements.

It should be noted that the Departmental Chief Executive of the Office of Local Government cannot approve individual variations to the standard terms of the contract.

Candidates who are placed on the eligibility list and unsuccessful applicants should be advised of the outcome of the recruitment process before the successful applicant's details are made public.

Record keeping

Councils should retain all records created as part of the recruitment process including the advertisement, position description, selection criteria, questions asked at interview, interview panel notes, selection panel reports and notes of any discussions with the selected candidate. These records are required to be stored and disposed of in accordance with the *State Records Act 1998*.

DAY-TO-DAY OVERSIGHT AND LIAISON WITH THE GENERAL MANAGER

While one of the prescribed functions of the governing body is to monitor the general manager's performance, day-to-day oversight of and liaison with the general manager should be undertaken by the mayor.

The mayor's role in the day-to-day management of the general manager should include:

- approving leave
- approving expenses incurred, and
- receiving and managing complaints about the general manager in accordance with the *Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW*.

The council's governing body should ensure there are adequate and appropriate policies in place to guide the mayor in the day-to-day oversight of and liaison with the general manager and keep those policies under regular review.

Some of the key policies the governing body should ensure are in place are those relating to:

- leave
- travel
- credit cards
- purchasing and procurement
- expenses and facilities
- petty cash, and
- financial and non-financial delegations of authority.

The governing body should also ensure there are appropriate policies in place with respect to the expenditure of council funds and reporting requirements in relation to that expenditure.

The council's governing body should satisfy itself that any policy governing the conferral of a benefit on the general manager, such as use of a motor vehicle, allows the actual dollar value of that benefit to be quantified so it can be accurately reflected in the general manager's salary package in Schedule C to the approved standard contract.

PERFORMANCE MANAGEMENT

Managing the performance of the general manager

The general manager is made accountable to the council for their performance principally through their contract of employment.

The role of the governing body is to monitor the general manager's performance in accordance with their contract of employment.

The performance of the general manager must be reviewed at least annually against the agreed performance criteria for the position. Councils may also choose to undertake more frequent interim reviews of the general manager's performance.

The agreed performance criteria must be set out in an agreement that is signed within three months of the commencement of the contract. Development of the performance agreement is discussed below.

Establishing a performance review panel

The governing body must establish a performance review panel led by the mayor, and delegate the task of undertaking the general manager's performance reviews to the panel. The extent of the delegation should be clear.

It is recommended that full responsibility for performance management be delegated to the performance review panel, including discussions about performance, any actions that should be taken and the determination of the new performance agreement.

Performance review panels should comprise of the mayor, the deputy mayor, another councillor nominated by council and a councillor nominated by the general manager.

The council's governing body may also consider including an independent observer on the panel. Panel members should be trained in the performance management of general managers.

The role of the review panel includes:

- conducting performance reviews
- reporting the findings and recommendations of reviews to the council, and
- development of the performance agreement.

The governing body and the general manager may agree on the involvement of a suitably qualified external facilitator such as a human resources professional to assist with the performance review process and the development of a new performance agreement. That person may be selected by the governing body or the performance review panel.

Councillors who are not members of the performance review panel may be invited to contribute to the performance review process by providing feedback to the mayor on the general manager's performance relevant to the agreed performance criteria.

All councillors should be notified of relevant dates in the performance review cycle and be kept advised of the panel's findings and recommendations.

The panel should report back to the governing body of the council in a closed session on the findings and recommendations of performance reviews as soon as practicable following any performance review. This should not be an opportunity to debate the results or revisit the general manager's performance review. The general manager should not be present when the matter is considered.

The performance agreement, action plan and any associated records that contain specific information about the work performance or conduct of the general manager are to remain confidential unless otherwise agreed to by the general manager or are required to be disclosed by law. The unauthorised disclosure of this information may constitute a breach of the Act, the council's code of conduct and the *Privacy and Personal Information Protection Act 1998*.

Establishing the performance agreement

The performance agreement is the most important component of successful performance management. The performance agreement should include clearly defined and measurable performance indicators against which the general manager's performance can be measured.

As one of the general manager's key responsibilities is to oversee the implementation of the council's strategic direction, it is important to align the general manager's performance criteria to the goals contained in the community strategic plan, and the council's delivery program and operational plans.

The performance agreement should also include indicators relevant to the general manager's personal contribution to the council's key achievements and their core capabilities, including leadership qualities.

The performance agreement should also include indicators related to promoting and maintaining an ethical culture within the council. These could include the conduct and measurement of the outcomes from staff surveys and the promotion of whistleblowing procedures under the *Public Interest Disclosures Act 1994* and the reporting of suspected wrongdoing to appropriate oversight agencies including the Independent Commission Against Corruption and the Office of Local Government.

The performance agreement should contain but not be limited to key indicators that measure how well the general manager has met the council's expectations with respect to:

- service delivery targets in the council's delivery program and operational plans
- budget compliance
- organisational capability
- timeliness and accuracy of information and advice to councillors
- timely implementation of council resolutions
- management of organisational risks
- promotion of an ethical culture
- ensuring a safe workplace and facilitating compliance with the *Work Health and Safety Act 2011*, and
- leadership and providing a consultative and supportive working environment for staff etc.

Performance review process

The approved standard contract requires that the performance of the general manager must be formally reviewed at least annually. The governing body of the council may also undertake interim performance reviews as appropriate.

The assessment should include:

- a self-assessment by the general manager, and
- an assessment by the review panel of the general manager's performance against the performance agreement.

The performance review meeting should be scheduled with sufficient notice to all parties in accordance with clauses 7.6 and 7.7 of the approved standard contract. These require:

- the general manager to give the council 21 days' written notice that an annual performance review is due, and
- the council to give the general manager at least 10 days' written notice that the performance review is to be conducted.

The meeting should concentrate on constructive dialogue about the general manager's performance against all sections of the performance agreement.

The meeting should identify any areas of concern and agreed actions to address those concerns.

In undertaking the performance review, care must be taken to ensure that the review is conducted fairly and in accordance with the principles of natural justice. The appointment by the council, in agreement with the general manager, of a suitably qualified external facilitator to advise on the process (see above) should assist councils to comply with these requirements.

The council's governing body must advise the general manager, in writing, in clear terms, the outcome of any performance review.

The new performance agreement for the next period should be prepared as soon as possible after the completion of the previous period. The agreement should be presented to the governing body of the council for discussion in a closed meeting together with the outcomes of the previous review period.

REMUNERATION AND REWARD

Under the approved standard contract, general managers are entitled to an annual increase in their salary package on each anniversary of the contract, equivalent to the latest percentage increase in remuneration for NSW public sector senior executive office holders as determined by the Statutory and Other Offices Remuneration Tribunal.

Councils may also approve discretionary increases to the general manager's total remuneration package under the approved standard contract as a reward for good performance. Discretionary increases may only be approved after a formal review of the general manager's performance has been undertaken and the general manager's performance has been assessed as being better than satisfactory.

Any discretionary increases should be modest and in line with community expectations and only apply for one year unless the council determines that it is to apply for the balance of the contract. All discretionary increases in remuneration, together with the reasons for the increase, must be reported to an open meeting of the council.

Councils may also on one occasion during the term of the contract approve the payment of a retention bonus to the general manager as an incentive for them to serve out their contract. If approved, the retention bonus is to be accrued on an annual, pro-rata basis for the remainder of the contract and is to be paid at the end of the contract period.

SEPARATION

Termination of the general manager's employment

The approved standard contract sets out how the general manager's employment contract can be terminated before its expiry date by either the governing body or the general manager (see clause 10 of the approved standard contract). The circumstances in which the general manager's employment contract may be terminated are set out below:

By agreement

The contract may be terminated at any time by written agreement between the council and the general manager.

Resignation

The general manager may terminate the contract by giving 4 weeks written notice to the governing body of the council.

Incapacity

A council may terminate the general manager's contract by giving them 4 weeks written notice or by paying the equivalent of 4 weeks' remuneration calculated in accordance with Schedule C of the approved standard contract where:

- the general manager has become incapacitated for 12 weeks or more
- they have exhausted their sick leave, and
- the duration of the incapacity is either indefinite or for a period that would make it unreasonable for the contract to be continued.

Poor performance

A council may terminate the general manager's contract by giving them 13 weeks written notice or by paying the equivalent of 13 weeks' remuneration calculated in accordance with Schedule C of the approved

standard contract on grounds of poor performance.

A council may only terminate the general manager's contract on the grounds of poor performance where:

- a performance review has been conducted, and
- the council has concluded that the general manager's performance falls short of the performance criteria or the terms of their performance agreement, and
- the general manager has been afforded a reasonable opportunity to utilise dispute resolution under clause 17 of the contract (see below).

No fault termination

A council may terminate the general manager's contract at any time by giving them 38 weeks written notice or paying the equivalent of 38 weeks remuneration calculated in accordance with Schedule C of the approved standard contract. If there are less than 38 weeks left to run in the term of the general manager's contract, the council can pay out the balance of the contract in lieu of notice.

Where the council proposes to terminate the general manager's contract on these grounds, if either party requests it and both parties agree, they may participate in mediation in relation to the proposed decision to terminate the contract. If the council does not agree to participate in mediation, it must give the general manager reasons for its decision where the general manager requests them.

Where a council terminates the contract on these grounds, it must give the general manager reasons for its decision to terminate their employment where the general manager requests it.

Summary dismissal

Councils may summarily dismiss the general manager on the grounds set out under clause 10.4 of the approved standard contract. These include:

- serious or persistent breach of the employment contract
- serious and wilful disobedience of any reasonable and lawful instruction or direction given by the council,
- serious and wilful misconduct, dishonesty, insubordination or neglect in the discharge of the general manager's duties and functions under their contract,
- failure to comply with any law or council policy concerning sexual harassment or racial or religious vilification
- serious or persistent breach of the council's code of conduct
- commission of a crime, resulting in conviction and sentencing (whether or not by way of periodic detention), which affects the general manager's ability to perform their duties and functions satisfactorily, or that brings the council into disrepute
- absence without approval for a period of 3 or more consecutive business days.

Automatic termination

The general manager's contract of employment is automatically terminated where the general manager becomes bankrupt, or they are disqualified from managing a corporation under Part 2D.6 of the *Corporations Act 2001*.

Where this occurs, the general manager's employment with the council automatically ends without the need for a decision by the council to terminate their contract of employment.

Suspension of the general manager

Councils may suspend the general manager, for example while allegations against them are

being investigated. Suspension should be on full pay for a clearly defined period.

Councils should not suspend a general manager's employment without first seeking expert legal advice. It would not be appropriate to seek advice from council human resources staff on the proposed suspension of the general manager.

Any decision to suspend a general manager should be made at a closed council meeting, having first carefully considered the expert legal advice received in relation to the specific matter.

The principals of procedural fairness apply to any decision to suspend a general manager, i.e., the general manager must be advised of the circumstances leading to their suspension, the reasons for the suspension, the period of the suspension and be given a right to respond to the decision to suspend.

Dispute resolution

The approved standard contract contains a dispute resolution clause at clause 17. These provisions are designed to encourage councils and general managers to attempt to resolve disputes when they arise.

Councils are required to offer the general manager an opportunity to utilise dispute resolution before they can terminate their employment for poor performance.

Where it is proposed to terminate the contract on the "no fault" grounds (clause 10.3.1(e)), if either party requests it and both parties agree, they may participate in mediation under clause 17 in relation to the proposed decision to terminate. If the council does not agree to participate in mediation, it must give the general manager reasons for its decision where the general manager requests them.

The governing body of the council should ideally resolve to delegate this function to the mayor or a panel of 3 councillors including the mayor.

If the dispute involves the mayor, then the deputy mayor should take the mayor's place. If there is no deputy mayor then the governing body should resolve to appoint another councillor to take the mayor's place.

The governing body of the council and the general manager should agree on an independent mediator to mediate the dispute. The approved standard contract allows the Departmental Chief Executive of the Office of Local Government to appoint a mediator where the parties cannot agree on one.

Councils and general managers may also agree on a mediator when the contract is made.

RENEWING THE GENERAL MANAGER'S CONTRACT

Clause 5 of the approved standard contract sets out the process for renewing the general manager's contract of employment. The key steps in the process are as follows:

- At least 9 months before the contract expires (or 6 months if the term of employment is for less than 3 years), the general manager must apply to the council in writing if seeking re-appointment to the position
- At least 6 months before the contract expires (or 3 months if the term of employment is for less than 3 years), the council must respond to the general manager's application by notifying the general manager in writing of its decision to either offer the general manager a new contract of employment (and on what terms) or to decline their application for re-appointment
- At least 3 months before the contract expires (or 1 month if the term of employment is for less than 3 years) the general manager must notify the council in writing of their decision to either accept or decline the offer made by the council.

Approval may be sought from the Departmental Chief Executive of the Office of Local Government to vary these timeframes in exceptional or unforeseen circumstances.

The terms of the new contract of employment, and in particular the schedules to the new contract, should be set out in the letter of offer. Before offering a new contract, the council should carefully review the terms of the schedules to the new contract.

The governing body should ensure that the performance criteria of the new performance agreement adequately reflect its expectations of the general manager's performance.

The governing body should also consider previous performance reviews conducted under previous contracts.

The process of deciding whether to offer the general manager a new contract should be as follows:

- a performance review is conducted
- findings and recommendations are reported to a closed council meeting in the absence of the general manager
- the closed meeting considers and decides whether to offer a new contract of employment to the general manager and on what terms as set out in the schedules to the contract
- the mayor informs the general manager of the council's decision.

Details of the decision to offer a new contract and a salary package should be reported to an open council meeting.

Appendix 1 – Performance management timelines

Timeline	Activity	Responsibility
At commencement of each new council	Provide induction training on performance management of the general manager	Council
Within 3 months of the commencement date of the contract	A performance agreement setting out agreed performance criteria must be signed between the general manager and the council	Council or council panel General Manager
Within 2 months of the signing of the performance agreement	The general manager must prepare and submit to the council an action plan which sets out how the performance criteria are to be met	General Manager
21 days' notice (before annual review)	The general manager gives the council written notice that an annual performance review is due	General Manager
At least 10 days' notice	The council must give the general manager written notice that the performance review is to be conducted	Council or council panel
After 6 months	The council may also decide, with the agreement of the general manager, to provide interim feedback to the general manager midway through the annual review period	Council or council panel General Manager
Prior to the annual review	Ensure all councillors on the review panel have been trained in performance management of general managers	Council
Prior to the annual performance review	The general manager may submit to council a self-assessment of their performance	General Manager
Annually	The general manager's performance must be reviewed having regard to the performance criteria in the agreement	Council or council panel General Manager
Annually	The performance agreement must be reviewed and varied by agreement	Council or council panel General Manager
Within 6 weeks of the conclusion of the performance review	Council will prepare and send to the general manager a written statement with council's conclusions on the general manager's performance during the performance review period	Council or council panel
As soon as possible after receipt of the statement	The general manager and the council will agree on any variation to the performance agreement for the next period of review	Council or council panel General Manager

Appendix 2 – Stages of performance management

STAGE	ACTION	PROCESS
1. Developing performance agreement	<ul style="list-style-type: none"> ▪ Examine the position description and contract ▪ List all position responsibilities from the position description ▪ Identify stakeholder expectations ▪ List the key strategic objectives from the delivery program and operational plans ▪ Develop performance measures (identify indicators - set standards) 	<ul style="list-style-type: none"> ▪ Good planning ▪ Direct and effective communication ▪ Open negotiation ▪ Joint goal setting
2. Action planning	<ul style="list-style-type: none"> ▪ Develop specific strategies to meet strategic objectives ▪ Identify resources ▪ Delegate tasks (e.g., put these delegated tasks into the performance agreements for other senior staff) 	<ul style="list-style-type: none"> ▪ Detailed analysis ▪ Two-way communication ▪ Detailed documentation
3. Monitoring progress (feedback halfway through the review period)	<ul style="list-style-type: none"> ▪ Assess performance ▪ Give constructive feedback ▪ Adjust priorities and reset performance measures if appropriate 	<ul style="list-style-type: none"> ▪ Communication ▪ Avoid bias ▪ Counselling ▪ Coaching ▪ Joint problem solving
4. Annual	<ul style="list-style-type: none"> ▪ Assess performance against measures ▪ Give constructive feedback ▪ Identify poor performance and necessary corrective action ▪ Identify outstanding performance and show appreciation 	<ul style="list-style-type: none"> ▪ Evaluation of the reasons behind performance being as assessed ▪ Open, straightforward communication (as bias free as possible) ▪ negotiation ▪ Counselling, support, training ▪ Documenting ▪ Decision making
5. Developing revised agreement	See stage 1	See Stage 1

Item 13

Filling A Casual Vacancy By Countback

File No: X001937

Summary

Under section 291A of the Local Government Act 1993, a casual vacancy in the office of councillor, occurring within 18 months of an ordinary election, may be filled by a countback election if Council resolves to do this at its first meeting after that ordinary election.

This process will only be invoked in the event of one of the elected councillors vacating office during that 18-month period. A countback election effectively involves a re-count of the previously run election but making the vacating councillor ineligible and distributing each of their ballot papers to the next preference on the ballot paper.

The cost of using a countback to fill a casual vacancy will be considerably lower than the cost of a by-election.

If the recommended resolution is adopted there will be no requirement for the City to undertake a by-election prior should a casual vacancy occur before 14 March 2026.

Recommendation

It is resolved that, pursuant to section 291A(1)(b) of the Local Government Act 1993 (the Act), the Council of the City of Sydney declares that casual vacancies occurring in the office of a councillor within 18 months after the last ordinary election of councillors for the Council on 14 September 2024 are to be filled by a countback of votes cast at that election for the office in accordance with section 291A of the Act and directs the CEO to notify the NSW Electoral Commissioner of the Council's decision within 7 days of the decision.

Attachments

Nil.

Background

1. Under section 291A of the Local Government Act 1993, a casual vacancy in the office of councillor, occurring within 18 months of an ordinary election, may be filled by a countback election if Council resolves to do this at its first meeting after that ordinary election.
2. If Council resolves to fill a casual vacancy by a countback election, there will be no requirement for a by-election for the office of councillor should a casual vacancy arise between now and 14 March 2026. The wording of the proposed resolution has been provided to councils by the NSW Electoral Commission.
3. A countback election can be used to elect a councillor to fill a single vacancy, where the vacating councillor was elected under the proportional representation method. Ordinary elections of City councillors follow the proportional representation method.
4. If there are multiple vacancies, a separate countback election will be held for each vacancy. If there are multiple eligible candidates, the returning officer will conduct a countback election using preference data from ballot papers and the same proportional representation method as was used for the election held on 14 September 2024. This process effectively re-runs the recent election for councillors, making the vacating councillor or councillors ineligible and distributing each of their ballot papers to the next preference on the ballot paper.
5. Under the Local Government Act 1993, a countback is not available to fill a casual vacancy in the office of Lord Mayor because that position is filled using the optional preferential voting system.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

6. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This report is aligned with the following strategic directions and objectives:
 - (a) Direction 1 - Responsible governance and stewardship

Organisational Impact

7. Adoption of this resolution will remove any requirement for a by-election until 14 March 2026 which will minimise any impact on the organisation should a casual vacancy arise in that period.

Social / Cultural / Community

8. This proposal will reduce the need for City resources to be diverted from community use together with removing the burden of additional voting by our residents and non-residents.

Financial Implications

9. The different costs of a countback election and a full by-election for the City are unknown, however a countback election would cost significantly less than a byelection.

Relevant Legislation

10. Local Government Act 1993, section 291A.

Critical Dates / Time Frames

11. Council can only resolve to use the countback process at its first meeting following the ordinary election.

Options

12. The alternative option is to do nothing, which carries significant risk and cost to Council. Doing nothing would mean any casual vacancy of a councillor occurring:
 - (a) before 11 March 2027 would need to be filled through a full by-election; and
 - (b) between 11 March 2027 and 11 June 2027 would need to be filled through either a full by-election or require a Council resolution to request that the Minister dispense with the by-election under section 294 of the Act.

MONICA BARONE PSM

Chief Executive Officer

Erin Cashman, Manager OCEO

Item 14**Adoption - Key City of Sydney Governance Documents****File No: S121629.017, X109863 and X101731****Summary**Code of Conduct

Section 440(7) of the Local Government Act 1993 (the Act) requires that Council review the City's Code of Conduct within the first 12 months after each ordinary election and make such adjustments as it considers appropriate.

Council must adopt a code of conduct and procedures that incorporate the provisions of the model code and procedures. The Model Code of Conduct for Local Councils in NSW and Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW were last updated by the Office of Local Government in August 2020. The current Code of Conduct and Procedures for the Administration of the Code of Conduct (Procedures) are based on the 2020 Model Code of Conduct and Procedures. No changes are proposed to the Code of Conduct or Procedures as part of this review.

It is noted that the Office of Local Government has recently published a Discussion Paper proposing potential changes to the Code of Conduct in relation to councillors. Any amendments to the Model Code of Conduct will be reported to Council with proposed amendments where appropriate.

Councillor Meetings with Registered Lobbyists and Property Developers Policy

The Councillor Meetings with Registered Lobbyists and Property Developers Policy was adopted on 8 April 2024. It requires a review following every Council election. No changes are proposed to the Councillor Meetings with Registered Lobbyists and Property Developers Policy as part of this review.

Delegations to the Lord Mayor and the Delegations to the Chief Executive Officer

Section 380 of the Local Government Act 1993 requires that each Council review all of its delegations during the first 12 months of each term of office. The existing delegations to the Lord Mayor and the Chief Executive Officer remain in force until Council has approved the revised delegations.

The Delegations to the Lord Mayor and the Delegations to the Chief Executive Officer were last reviewed by Council in August 2022. Temporary delegations made in response to the Covid-19 pandemic were removed throughout this period as they expired.

A full review of both registers has been undertaken in line with a recent significant review of the Register of Delegations from CEO to Directors and staff. This review of the Delegations to the Lord Mayor and Delegations to the CEO has taken the opportunity to update the format, reflect amendments to legislation, consolidate and clarify the delegations where possible and minimise duplication.

The Delegations to the CEO are currently structured to include both specific CEO delegated functions and Council reserved functions (in addition to those reserved under section 377 of the Act). In many cases this results in duplication and lack of clarity. It is proposed that the updated Delegations to the CEO clearly state the role of the CEO under section 335 of the Act and that Council delegates all powers and functions to the CEO other than those specifically reserved under legislation, delegated exclusively to the Lord Mayor from time to time or as set out in a list of specific limitations.

Recommendation

It is resolved that:

- (A) Council adopt the City of Sydney Code of Conduct shown at Attachment A to the subject report;
- (B) Council adopt the City of Sydney Procedures for the Administration of the Code of Conduct as shown at Attachment B to the subject report;
- (C) Council adopt the Councillor Meetings with Registered Lobbyists and Property Developers Policy as shown as Attachment C to the subject report;
- (D) authority be delegated to the Chief Executive Officer to make amendments to the City of Sydney Code of Conduct, Procedures for the Administration of the Code of Conduct and the Councillor Meetings with Registered Lobbyists and Property Developers Policy, in order to correct any minor drafting errors, update the form attached to the Councillor Meetings with Registered Lobbyists and Property Developers Policy from time to time as required and to finalise design and accessible formats for publication;
- (E) Council note that the Office of Local Government may develop and publish an updated model code of conduct and procedures and a further report will be brought to Council if required;
- (F) Council note that the Office of Local Government may develop and publish lobbying guidelines and a model policy and a further report will be brought to Council if required;
- (G) Council approve the Delegations to the Lord Mayor, as shown at Attachment F to the subject report; and
- (H) Council approve the Delegations to the Chief Executive Officer, as shown at Attachment G to the subject report;
- (I) Council revoke the existing Delegations to the Lord Mayor dated 22 August 2022 and Delegations to the Chief Executive Officer dated 22 August 2022 as shown at Attachments D and E to the subject report.

Attachments

- Attachment A.** City of Sydney Code of Conduct
- Attachment B.** City of Sydney Procedures for the Administration of the Code of Conduct
- Attachment C.** Councillor Meetings with Registered Lobbyists and Property Developers Policy
- Attachment D.** Delegations to the Lord Mayor dated 22 August 2022
- Attachment E.** Delegations to the Chief Executive Officer dated 22 August 2022
- Attachment F.** Delegations to the Lord Mayor
- Attachment G.** Delegations to the Chief Executive Officer

Background

Code of Conduct and Procedures for the Administration of the Code of Conduct

1. Under section 440 of the Local Government Act 1993 councils must review their adopted codes of conduct within 12 months of the election and make such adjustments as they consider appropriate.
2. Councils must adopt a code of conduct that incorporates the provisions of the Model Code of Conduct prescribed by the Regulation. There have been no changes to the Model Code or Model Procedures for the Administration of the Code of Conduct by the Office of Local Government (OLG) since 2020.
3. A council's adopted code of conduct may also include provisions that supplement the Model Code of Conduct provided that these provisions are not inconsistent with the Model Code of Conduct.
4. The City has kept its Code of Conduct consistent with the Model Code for many years, and last updated the Code of Conduct in 2020 following minor changes to the Model Code of Conduct and the Model Procedures.
5. The OLG review of the regulatory framework for dealing with councillor misconduct which commenced in 2022 is ongoing. Most recently the OLG released a Councillor Conduct and Meeting Practices Discussion Paper on 5 September 2024, with submissions closing on 15 November 2024. The City will make a submission as part of this process.
6. Accordingly, no changes are proposed to the existing Code of Conduct and Procedures as part of this review. The OLG communications will continue to be monitored and a further report will be brought to Council if required.
7. Councillors receive Code of Conduct training at the commencement of the new Council term and when any changes are made to the Code. Staff receive induction training on commencement with the City and undertake regular refresher training.

Councillor Meetings with Registered Lobbyists and Property Developers Policy

8. Council adopted a new Councillor Meetings with Registered Lobbyists and Property Developers Policy on 8 April 2024. This policy requires City of Sydney Councillors to record and submit details of meetings with registered lobbyists and property developers. These records are published on the City's website.
9. In recent investigations the Independent Commission Against Corruption (ICAC) has considered the corruption risks associated with the lobbying of councillors and made corruption prevention recommendations.
10. Among other things, ICAC has recommended that the OLG develop guidelines to enhance transparency around the lobbying of councillors.
11. The OLG has advised that it is developing guidelines to enhance transparency around the lobbying of councillors and a model policy on lobbying to support councils to implement the guidelines.

12. The Councillor Meetings with Registered Lobbyists and Property Developers Policy operates to supplement the provisions of the Code of Conduct. It includes a provision that the policy be reviewed and put to Council for endorsement following every Council election.
13. The Policy is recommended for adoption without any change in substance. The only recommended change being removal of the commencement date as it is no longer relevant.

Delegations to the Lord Mayor and Delegations to the Chief Executive Officer

14. This review of the Delegations to the Lord Mayor and Delegations to the CEO has taken the opportunity to update the format, reflect amendments to legislation, consolidate and clarify the delegations where possible and minimise duplication.

Delegations to the Lord Mayor

15. The Delegations to the Lord Mayor have been significantly re-worked but there are only a few substantive changes. The majority of changes relate to the re-ordering of wording for additional clarity and consistent format.
16. The preamble now outlines the role of the Lord Mayor under section 226 of the Act for more guidance. The additional delegations listed in this register, as powers rather than limitations, reference section 226(0) which allows Council to determine that the Lord Mayor may exercise any other functions of the Council that the Council determines.
17. Delegation 4 currently includes a provision relating to other chairpersons, rather than the Lord Mayor. This appears to be a delegation to Chairs other than the Lord Mayor and this power is already established in the Act and the code of meeting practice. It is recommended that this delegation be deleted.
18. A new delegation has been added for clarity that the Lord Mayor has authority to approve civic and ceremonial events. This is consistent with the role of the Lord Mayor under the Act and was always excluded from the Delegations to the CEO but not expressly included in the Delegations to the Lord Mayor.
19. The Lord Mayor's delegations include four delegations relating to the performance management of the CEO. These have been combined in the current update for clarity and simplification. The new delegation makes it clear that all performance management of the CEO is in accordance with the Act.
20. The delegations to the Lord Mayor relating to organisational accountability are inconsistent with functions and powers under the current provisions of the Act, Regulations and the focus on the role of the Audit, Risk and Compliance Committee (ARCC) as set out in the Office of Local Government's Audit and Risk Guidelines. Any requests for audits of the organisation should be raised through the Chair of the ARCC, rather than directly through the Chief Internal Auditor. It is recommended that these delegations be deleted except for the delegation to obtain direct and independent advice relevant to Council functions.
21. There are some other minor wording changes for the purpose of clarity in relation to the authority to obtain legal services and the delegation of authority during recess but these changes do not substantially amend the relevant delegations.

Delegations to the CEO

22. The Delegations to the CEO are currently structured to include both specific CEO delegated functions and Council reserved functions (in addition to those reserved under section 377 of the Act). In many cases this results in duplication and lack of clarity.
23. Previous limitations on the CEO's delegation that are either addressed through another pathway, such as legislation, or are now obsolete due to legislative changes, have been removed. In addition, concurrence requirements have been removed where possible, such as the reference to the internal governance processes dealing with tenders and contract variations.
24. Section 377 of the Local Government Act lists specific Council reserved functions which cannot be delegated and require Council resolution. The balance of Council's functions are delegated to the CEO. Under section 378 of the Act, the CEO may delegate any of their functions, other than this power of delegation.
25. Council reserved functions under section 377 of the Act are:
 - (a) the appointment of a general manager,
 - (b) the making of a rate,
 - (c) a determination under section 549 as to the levying of a rate,
 - (d) the making of a charge,
 - (e) the fixing of a fee,
 - (f) the borrowing of money,
 - (g) the voting of money for expenditure on its works, services or operations,
 - (h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),
 - (i) the acceptance of tenders to provide services currently provided by members of staff of the council,
 - (j) the adoption of an operational plan under section 405,
 - (k) the adoption of a financial statement included in an annual financial report,
 - (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,
 - (m) the fixing of an amount or rate for the carrying out by the council of work on private land,
 - (n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,
 - (o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979,

- (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,
 - (q) a decision under section 356 to contribute money or otherwise grant financial assistance to persons,
 - (r) a decision under section 234 to grant leave of absence to the holder of a civic office,
 - (s) the making of an application, or the giving of a notice, to the Governor or Minister,
 - (t) this power of delegation,
 - (u) any function under this or any other Act that is expressly required to be exercised by resolution of the council.
26. The updated preamble in the Delegations to the CEO outlines the role of the CEO under s335 of the Act. The effect of the Delegations to the CEO is that Council delegates all powers and functions to the CEO other than those specifically reserved under legislation, delegated exclusively to the Lord Mayor from time to time or as set out in a list of specific limitations.

Budget and resource allocation

27. A number of delegations and limitations in the category of budget and resource allocation are deleted in the updated document. These include the limitation relating to association memberships as these are the subject of an annual report to Council. The reservation prohibiting the CEO from making donations contrary to Council resolution is also not required as donations contrary to resolutions or policy are not permitted in any event.
28. The delegations regarding variations to contracts have been reworded for clarity and to remove references to concurrences and organisational processes, consistent with the approach of making the documents as simple and clear as possible. The focus for variations is to ensure that contracts which were not originally approved by Council are not varied so as to exceed the \$5 million limit. Where this is proposed a report will need to be brought to Council.
29. The limitation on approvals for concept designs has been clarified with new wording making it clear that the CEO cannot approve concept designs for capital works projects with an estimated project cost of more than \$5 million.
30. The current Council reserved function prohibits the CEO from authorising any expenditure greater than \$250,000 excluding GST per project from the capital contingency funds. It is proposed that this amount be increase to \$500,000 in light of, in particular, significant increases in construction costs in recent years. In most instances this contingency spending will be occurring under existing contracts so additional tender processes will not be required.

Legal Proceedings

31. It is recommended that the current limitations relating to legal proceedings be combined, which will enable proceedings to be commenced in the Supreme and Federal Courts provided the Lord Mayor has been consulted. All significant legal matters are reported to Council in the CEO update and quarterly reports. In addition, specific delegations enabling matters to be resolved contrary to Council resolution in planning litigation matters have been removed as Council no longer makes resolutions determining development applications meaning this delegation is no longer required.

Property, land use and related matters

32. The CEO's delegation to grant owner's consent to the lodgement of an application to carry out development on significant property or land owned or managed by Council is currently subject to some qualifications.
33. The current wording of the limitations is legally unclear as they refer to granting owner's consent subject to a time limit which is not consistent with the concept of owners consent for applications (provided once and for all time). This limitation is not required as significant works will come to Council for approval under other scoping reports or planning approvals and is recommended for removal.
34. It is proposed to increase the threshold at which leasing and licensing matters will be reported to Council to improve the ability of the organisation to efficiently respond to commercial leasing opportunities.
35. The current CEO delegation 15 is limited to approvals where the rental or fee does not exceed \$500,000 per annum and the term does not exceed 10 years (5 years plus one 5 year option). It is now proposed that the CEO will have delegation to enter agreements provided that the rental or fee is less than \$1,000,000 or the term is less than 15 years (including any options).

Planning and development

36. The current Delegations to the CEO also include a number of council reserved functions relating to determination of applications for development consent relating to, for example, the erection of buildings of more than 3 storeys and approval to demolish heritage items or entire residential buildings. The role of Council in determining these matters has been superseded following multiple changes to planning legislation over time including the introduction of Local Planning Panels. These limitations on delegation are accordingly no longer of any practical effect.

Organisational structure and personnel matters

37. The current delegations include both specific delegations to the CEO and Council reserved functions in relation to organisational structure and personnel matters. For example, the CEO currently has delegation (with some consultation requirements) to appoint senior staff, make structural changes involving M3 managers and enter into any significant enterprise agreement.

38. As a result of recent amendments to the Local Government Act 1993, councils no longer have the function of determining senior staff positions within their organisation structure. These amendments mean that the governing bodies of councils and the CEO will have the following responsibilities in determining the organisation structure of a council:
- Council is required to approve the resources to be allocated to the employment of staff after consulting the CEO, and
 - the CEO is in turn responsible for determining the organisation structure of the council after consulting with Council as governing body and for all other staffing matters.
39. The provisions in the CEO Delegations relating to organisational structure and personnel matters have been deleted due to these legislative changes as they are no longer applicable or required.

Council Operations and Services

40. The limitations on delegation currently restrict the CEO from carrying out new 'non-core' services not already approved by Council. The term 'non-core' has been removed in new limitations for clarity as all new services added to Council's operations would be additional to Council's core functions and should be determined by Council.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

41. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. These policies are aligned with the following strategic directions and objectives:
- (a) Direction 1 - Responsible governance and stewardship - by prescribing a common standard of behaviour and ethics for staff and councillors, improving transparency for the community as to the nature of meetings held by Councillors with registered lobbyists and property developers and by ensuring the proper and effective exercise of the City of Sydney's powers and functions by delegation in accordance with the Local Government Act 1993.

Organisational Impact

42. There are no impacts from this report in relation to the Code of Conduct and Procedures or the Councillor Meetings with Registered Lobbyists and Property Developers Policy as it is recommended that no changes be made to the existing documents.
43. Councillors will be trained in the Code of Conduct and Councillor Meetings with Registered Lobbyists and Property Developers Policy as part of the induction process.
44. The organisational impact of any change to the delegations has been considered as part of the Delegation Review Group review and Executive endorsement process, before being recommended for approval by Council. A review of delegations to staff will be undertaken once the new Delegations to the CEO are endorsed.

Relevant Legislation

45. Local Government Act 1993.
46. Local Government (General) Regulation 2021.
47. Electoral Funding Act 2018.

Public Consultation

48. No public consultation is required for the documents the subject of this report.

KIRSTEN MORRIN

Executive Director Legal and Governance

Nellette Kettle, Manager Risk and Governance

Attachment A

City of Sydney Code of Conduct

Code of Conduct



Code of Conduct

Resolution of Council: [] October 2024

Responsibility: Governance

The City of Sydney acknowledges the Gadigal of the Eora Nation as the Traditional Custodians of our local area.

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Part 1 Introduction

The 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.

Part 2 Definitions

In this code the following terms have the following meanings:

LGA	the Local Government Act 1993
administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
Chief Executive Officer	Chief Executive Officer of the Council of the City of Sydney
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.
contractor	agency staff engaged by the Council of the City of Sydney
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the City’s Audit, Risk and Compliance Committee
council committee	
member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory committee, and a person other than a councillor who is a member of the City’s Audit, Risk and Compliance Committee
council official	includes councillors, members of staff of a council, administrators, council committee members, delegates of council, contractors and members of wholly advisory committees and, for the purposes of clause 4.16, council advisers
councillor	any person elected or appointed to civic office, including the Lord Mayor and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
conduct	includes acts and omissions
delegate of council	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 Environmental Planning and Assessment Act 1979

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>
Lord Mayor	Lord Mayor of the Council of the City of Sydney
members of staff of a council	includes members of staff of county councils and joint organisations
the Office	Office of Local Government
personal information	information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	the Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation
the Regulation	the Local Government (General) Regulation 2005
voting representative	a voting representative of the board of a joint organisation
wholly advisory committee	a council committee that the council has not delegated any functions to.

Part 3 General Conduct

Obligations

General conduct

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

Fairness and equity

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

Harassment and discrimination

- 3.6. You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.

- 3.7. For the purposes of this code, “harassment” is any form of behaviour towards a person that:
- a. is not wanted by the person, and
 - b. offends, humiliates or intimidates the person, and
 - c. creates a hostile environment.
-

Bullying

3.8. You must not engage in bullying behaviour towards others.

3.9. For the purposes of this code, “bullying behaviour” is any behaviour in which:

- a. a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons and
- b. the behaviour creates a risk to health and safety.

3.10. Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:

- a. aggressive, threatening or intimidating conduct
- b. belittling or humiliating comments
- c. spreading malicious rumours
- d. teasing, practical jokes or ‘initiation ceremonies’
- e. exclusion from work-related events
- f. unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- g. displaying offensive material
- h. pressure to behave in an inappropriate manner.

3.11. Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:

- a. performance management processes
- b. disciplinary action for misconduct
- c. informing a worker about unsatisfactory work performance or inappropriate work behaviour
- d. directing a worker to perform duties in keeping with their job
- e. maintaining reasonable workplace goals and standards
- f. legitimately exercising a regulatory function
- g. legitimately implementing a council policy or administrative processes.

Work health and safety

- 3.12. All council officials, including councillors, owe statutory duties under the Work Health and Safety Act 2011 (WHS Act). You must comply with your duties under the WHS Act and your responsibilities under any policies or procedures adopted by the council to ensure workplace health and safety. Specifically, you must:
- a. take reasonable care for your own health and safety
 - b. take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
 - c. comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WHS Act and any policies or procedures adopted by the council to ensure workplace health and safety
 - d. cooperate with any reasonable policy or procedure of the council relating to workplace health or safety that has been notified to council staff
 - e. report accidents, incidents, near misses, to the Chief Executive Officer or such other staff member nominated by the Chief Executive Officer, and take part in any incident investigations
 - f. so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WHS Act in relation to the same matter.

Land use planning, development assessment and other regulatory functions

- 3.13. You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.
- 3.14. In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

Binding caucus votes

- 3.15. You must not participate in binding caucus votes in relation to matters to be considered at a council or committee meeting.
- 3.16. For the purposes of clause 3.15, a binding caucus vote is a process whereby a group of councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the council or committee, irrespective of the personal views of individual members of the group on the merits of the matter before the council or committee.

- 3.17. Clause 3.15 does not prohibit councillors from discussing a matter before the council or committee prior to considering the matter in question at a council or committee meeting, or from voluntarily holding a shared view with other councillors on the merits of a matter.
- 3.18. Clause 3.15 does not apply to a decision to elect the Lord Mayor or Deputy Lord Mayor, or to nominate a person to be a member of a council committee or a representative of the council on an external body.

Obligations in relation to meetings

- 3.19. You must comply with rulings by the chair at council and committee meetings or other proceedings of the council unless a motion dissenting from the ruling is passed.
- 3.20. You must not engage in bullying behaviour (as defined under this Part) towards the chair, other council officials or any members of the public present during council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).
- 3.21. You must not engage in conduct that disrupts council or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.
- 3.22. If you are a councillor, you must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of the council, or of a committee of the council. Without limiting this clause, you must not:
- a. leave a meeting of the council or a committee for the purposes of depriving the meeting of a quorum, or
 - b. submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or
 - c. deliberately seek to impede the consideration of business at a meeting.

Part 4 Pecuniary Interests

What is a pecuniary interest?

- 4.1. A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in clause 4.3.
- 4.2. You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in clause 4.6.
- 4.3. For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
 - a. your interest, or
 - b. the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - c. a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.4. For the purposes of clause 4.3:
 - a. Your “relative” is any of the following:
 - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - ii) your spouse’s or de facto partner’s parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
 - b. “de facto partner” has the same meaning as defined in section 21C of the Interpretation Act 1987.
- 4.5. You will not have a pecuniary interest in relation to a person referred to in subclauses 4.3(b) or (c):
 - a. if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
 - b. just because the person is a member of, or is employed by, a council or a statutory body, or is employed by the Crown, or
 - c. just because the person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

What interests do not have to be disclosed?

- 4.6. You do not have to disclose the following interests for the purposes of this Part:
- a. your interest as an elector
 - b. your interest as a ratepayer or person liable to pay a charge
 - c. an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a section of the public that includes persons who are not subject to this code
 - d. an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the council in the same manner and subject to the same conditions as apply to persons who are not subject to this code
 - e. an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not)
 - f. if you are a council committee member, an interest you have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if you have been appointed to represent the organisation or group on the council committee
 - g. an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company
 - h. an interest you have arising from the proposed making by the council of an agreement between the council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership
 - i. an interest you have arising from the making by the council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the council in respect of similar matters with other residents of the area:
 - i) the performance by the council at the expense of your relative of any work or service in connection with roads or sanitation
 - ii) security for damage to footpaths or roads
 - iii) any other service to be rendered, or act to be done, by the council by or under any Act conferring functions on the council, or by or under any contract
 - j. an interest relating to the payment of fees to councillors (including the Lord Mayor and Deputy Lord Mayor)
 - k. an interest relating to the payment of expenses and the provision of facilities to councillors (including the Lord Mayor and Deputy Lord Mayor) in accordance with a policy under section 252 of the LGA,
 - l. an interest relating to an election to the office of Lord Mayor arising from the fact that a fee for the following 12 months has been determined for the office of Lord Mayor
 - m. an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person
 - n. an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or a council committee member

- o. an interest arising from the appointment of a councillor to a body as a representative or delegate of the council, whether or not a fee or other recompense is payable to the representative or delegate.

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

What disclosures must be made by a designated person?

4.8. Designated persons include:

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

4.9. A designated person:

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

4.10. A designated person must disclose in writing to the Chief Executive Officer (or if the person is the Chief Executive Officer, 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer a return in the form set out in schedule 2 to this code, disclosing the councillor's or designated person's interests as specified in schedule 1 to this code within 3 months after:
- a. becoming a councillor or designated person, and
 - b. 30 June of each year, and
 - c. the councillor or designated person becoming aware of an interest they are required to disclose under schedule 1 that has not been previously disclosed in a return lodged under paragraphs (a) or (b).
- 4.22. A person need not make and lodge a return under clause 4.21, paragraphs (a) and (b) if:
- a. they made and lodged a return under that clause in the preceding 3 months, or
 - b. they have ceased to be a councillor or designated person in the preceding 3 months.
- 4.23. A person must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.
- 4.24. The Chief Executive Officer must keep a register of returns required to be made and lodged with the Chief Executive Officer.
- 4.25. Returns required to be lodged with the Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Interests

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 Chief Executive Officer, such a disclosure is to be made to the staff member's manager. In the case of the Chief Executive Officer, such a disclosure is to be made to the Lord Mayor.

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

- 5.12. If you are a member of staff of council other than the Chief Executive Officer, 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 Chief Executive Officer, 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 Lord Mayor.
- 5.13. Despite clause 5.10(b), a councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.
- 5.14. Council committee members are not required to declare and manage a non-pecuniary conflict of interest in accordance with the requirements of this Part where it arises from an interest they have as a person chosen to represent the community, or as a member of a non-profit organisation or other community or special interest group, if they have been appointed to represent the organisation or group on the council committee.

Political Donations

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

5.19. Despite clause 5.16, a councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

Loss of quorum as a result of compliance with this Part

5.20. A councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:

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

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

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

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

Other business or employment

5.23. The Chief Executive Officer 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 Chief Executive Officer in writing of the employment, work or business and the Chief Executive Officer has given their written approval for the staff member to engage in the employment, work or business.
- 5.25. The Chief Executive Officer may at any time prohibit a member of staff from engaging, for remuneration, in private employment, contract work or other business outside the service of the council that relates to the business of the council, or that might conflict with the staff member's council duties.
- 5.26. A member of staff must not engage, for remuneration, in private employment, contract work or other business outside the service of the council if prohibited from doing so.
- 5.27. Members of staff must ensure that any outside employment, work or business they engage in will not:
- a. conflict with their official duties
 - b. involve using confidential information or council resources obtained through their work with the council including where private use is permitted
 - c. require them to work while on council duty
 - d. discredit or disadvantage the council
 - e. pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

Personal dealings with council

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

Part 6 Personal Benefit

- 6.1. For the purposes of this Part, a gift or a benefit is something offered to or received by a council official or someone personally associated with them for their personal use and enjoyment.
- 6.2. A reference to a gift or benefit in this Part does not include:
- a. items with a value of \$10 or less
 - b. a political donation for the purposes of the Electoral Funding Act 2018
 - c. a gift provided to the council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual council official or someone personally associated with them
 - d. a benefit or facility provided by the council to an employee or councillor
 - e. attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
 - f. free or subsidised meals, beverages or refreshments provided to council officials in conjunction with the performance of their official duties such as, but not limited to:
 - i) the discussion of official business
 - ii) work-related events such as council-sponsored or community events, training, education sessions or workshops
 - iii) conferences
 - iv) council functions or events
 - v) social functions organised by groups, such as council committees and community organisations.

Gifts and benefits

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

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

- 6.5. You must not:
- a. seek or accept a bribe or other improper inducement
 - b. seek gifts or benefits of any kind

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

Gifts and benefits of token value

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

Gifts and benefits of more than token value

- 6.9. Gifts or benefits that exceed \$100 in value are gifts or benefits of more than token value for the purposes of clause 6.5(d) and, subject to clause 6.7, must not be accepted.

- 6.10. Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$100, corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.
- 6.11. Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single 12-month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same 12-month period would exceed \$100 in value.
- 6.12. For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.
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“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.
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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 Chief Executive Officer by way of council or committee resolution, or by the Lord Mayor or administrator exercising their functions under section 226 of the LGA
 - b. in any public or private forum, direct or influence, or attempt to direct or influence, any other member of the staff of the council or a delegate of the council in the exercise of the functions of the staff member or delegate
 - c. contact a member of the staff of the council on council-related business unless in accordance with the policy and procedures governing the interaction of councillors and council staff that have been authorised by the council and the Chief Executive Officer
 - d. contact or issue instructions to any of the council's contractors, including the council's legal advisers, unless by the Lord Mayor or administrator exercising their functions under section 226 of the LGA.
- 7.3. The obligation under clauses 7.2(a) and 7.2(b) is subject to the following exceptions:
- a. the Lord Mayor may direct or influence council staff that are employed by council to work in the Office of the Lord Mayor as specified in a relevant position description, and
 - b. a Councillor may direct or influence council staff that are employed by Council to work in the office of the councillor who is giving the direction or influence.
- 7.4. 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

- 7.5. Under section 335 of the LGA, the role of the Chief Executive Officer 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 Lord Mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.
- 7.6. 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

- 7.7. You must not engage in any of the following inappropriate interactions:
- a. councillors and administrators approaching staff and staff organisations to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
 - b. council staff approaching councillors and administrators to discuss individual or operational staff matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters
 - c. subject to clause 8.6, council staff refusing to give information that is available to other councillors to a particular councillor
 - d. councillors and administrators who have lodged an application with the council, discussing the matter with council staff in staff-only areas of the council
 - e. councillors and administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the councillor or administrator has a right to be heard by the panel at the meeting
 - f. councillors and administrators being overbearing or threatening to council staff
 - g. council staff being overbearing or threatening to councillors or administrators
 - h. councillors and administrators making personal attacks on council staff or engaging in conduct towards staff that would be contrary to the general conduct provisions in Part 3 of this code in public forums including social media
 - i. councillors and administrators directing or pressuring council staff in the performance of their work, or recommendations they should make

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

Part 8 Access to Information and Council Resources

Councillor and administrator access to information

- 8.1. The Chief Executive Officer is responsible for ensuring that councillors and administrators can access information necessary for the performance of their official functions. The Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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.
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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).
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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, Lord Mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the Chief Executive Officer.
- 8.26. Councillors and administrators must not enter staff-only areas of council buildings without the approval of the Chief Executive Officer (or their delegate) or as provided for in the procedures governing the interaction of councillors and council staff.
- 8.27. Councillors and administrators must ensure that when they are within a staff only area they refrain from conduct that could be perceived to improperly influence council staff decisions.

Part 9 Maintaining the Integrity of this Code

Complaints made for an improper purpose

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

Detrimental action

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

Compliance with requirements under the Procedures

- 9.6. You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- 9.7. You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this clause.
- 9.8. You must comply with a practice ruling made by the Office under the Procedures.

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

- 9.9. All allegations of breaches of this code must be dealt with under and in accordance with the Procedures.
- 9.10. You must not allege breaches of this code other than by way of a complaint made or initiated under the Procedures.
- 9.11. You must not make allegations about, or disclose information about, suspected breaches of this code at council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.
- 9.12. You must not disclose information about a complaint you have made alleging a breach of this code or any other matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- 9.13. Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the Public Interest Disclosures Act 1994.

Complaints alleging a breach of this Part

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

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:
- 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
 - was made by a relative of the traveller, or
 - 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
 - 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
 - was a political donation disclosed, or required to be disclosed, under Part 3 of the Electoral Funding Act 2018, or
 - 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
 - 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:
- the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
 - the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
 - the nature of the interest, or the position held, in each of the corporations, and
 - a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- 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
 - required to apply its profits or other income in promoting its objects, and
 - 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 Lord Mayor or Deputy Lord Mayor under sections 248 or 249 of the LGA need not be disclosed.

Debts

31. A person making a return under clause 4.21 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:

- a. on the return date, and
- b. at any time in the period since 30 June of the previous financial year.

32. A liability to pay a debt must be disclosed by a person in a return made under clause 4.21 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.

33. A liability to pay a debt need not be disclosed by a person in a return if:

- a. the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:
 - i. the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
 - ii. the amounts to be paid exceeded, in the aggregate, \$500, or
- b. the person was liable to pay the debt to a relative, or
- c. in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
- d. in the case of a debt arising from the supply of goods or services:
 - i. the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
 - ii. the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
- e. subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.

Discretionary disclosures

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

Schedule 2 Form of Written Return of Interests Submitted Under Clause 4.21

‘Disclosures by councillors and designated persons’ return

Return forms for councillors and designated persons can be downloaded from the Secretariat Pecuniary Interest Returns page:

- Disclosures by Councillors and Designated Persons Annual Return (this can also be used to update disclosures throughout the year)
- Disclosures by Councillors and Designated Persons First (New Starter) Return
- Disclosures by Councillors and Designated Persons Final (Departure) Return

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 ¹	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) ² [<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>]	

¹ Clause 4.1 of the Model Code of Conduct provides that a pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person. A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause 4.6 of the Model Code of Conduct.

² A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in clause 4.3 of the Model Code of Conduct has a proprietary interest.

Proposed change of zone/planning control [Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land]	
Effect of proposed change of zone/planning control on councillor or associated person [Insert one of the following: “Appreciable financial gain” or “Appreciable financial loss”]	

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

Councillor’s signature

Date

[This form is to be retained by the council’s Chief Executive Officer and included in full in the minutes of the meeting]



Attachment B

**City of Sydney Procedures for the Administration
of the Code of Conduct**

Procedures for the Administration of the Code of Conduct



**Procedures for the Administration of the
Code of Conduct**

Resolution of Council: [] 2024
Responsibility: Governance

The City of Sydney acknowledges the Gadigal of the
Eora Nation as the Traditional Custodians of our local area.

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Part 1 Introduction

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

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

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

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

Note: Parts 6, 7, 8 and 11 of these procedures apply only to the management of code of conduct complaints about councillors (including the Lord Mayor) or the Chief Executive Officer.

Part 2 Definitions

In these procedures the following terms have the following meanings:

LGA	the Local Government Act 1993
administrator	an administrator of a council appointed under the LGA other than an administrator appointed under section 66
Chief Executive Officer	Chief Executive Officer of the Council of the City of Sydney
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 Chief Executive Officer 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 Chief Executive Officer
contractor	agency staff engaged by the Council of the City of Sydney
council	includes county councils and joint organisations
council committee	a committee established by a council comprising of councillors, staff or other persons that the council has delegated functions to and the City's Audit, Risk and Compliance Committee
council committee member	a person other than a councillor or member of staff of a council who is a member of a council committee other than a wholly advisory

committee, and a person other than a councillor who is a member of the City's Audit, Risk and Compliance Committee

councillor	any person elected or appointed to civic office, including the Lord Mayor, and includes members and chairpersons of county councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
council official	includes councillors, members of staff of a council, administrators, council committee members, delegates of council, contractors and members of wholly advisory committees and, for the purposes of clause 4.16, council advisers
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
ICAC	the Independent Commission Against Corruption
joint organisation	a joint organisation established under section 400O of the LGA
Lord Mayor	Lord Mayor of the Council of the City of Sydney
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 Local Government (General) Regulation 2005
respondent	a person whose conduct is the subject of investigation by a conduct reviewer under these procedures
wholly advisory committee	a council committee that the council has not delegated any functions to

Part 3 Administrative Framework

The establishment of a panel of conduct reviewers

- 3.1 The council must establish a panel of conduct reviewers.
- 3.2 The council may enter into an arrangement with one or more other councils to share a panel of conduct reviewers including through a joint organisation or another regional body associated with the councils.
- 3.3 The panel of conduct reviewers is to be established following a public expression of interest process.
- 3.4 An expression of interest for members of the council's panel of conduct reviewers must, at a minimum, be advertised locally and in the Sydney metropolitan area.
- 3.5 To be eligible to be a conduct reviewer, a person must, at a minimum, meet the following requirements:
- a) an understanding of local government, and
 - b) knowledge of investigative processes including but not limited to procedural fairness requirements and the requirements of the Public Interest Disclosures Act 1994, and
 - c) knowledge and experience of one or more of the following:
 - i) investigations
 - ii) law
 - iii) public administration
 - iv) public sector ethics
 - v) alternative dispute resolution, and
 - d) meet the eligibility requirements for membership of a panel of conduct reviewers under clause 3.6.
- 3.6 A person is not eligible to be a conduct reviewer if they are:
- a) a councillor, or
 - b) a nominee for election as a councillor, or
 - c) an administrator, or

- d) an employee of a council, or
- e) a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
- f) a nominee for election as a member of the Commonwealth Parliament or any State Parliament or Territory Assembly, or
- g) a person who has a conviction for an indictable offence that is not an expired conviction.

- 3.7 A person is not precluded from being a member of the council's panel of conduct reviewers if they are a member of another council's panel of conduct reviewers.
- 3.8 An incorporated or other entity may be appointed to a council's panel of conduct reviewers where the council is satisfied that all the persons who will be undertaking the functions of a conduct reviewer on behalf of the entity meet the selection and eligibility criteria prescribed under this Part.
- 3.9 A panel of conduct reviewers established under this Part is to have a term of up to four years.
- 3.10 The council may terminate the panel of conduct reviewers at any time. Where a panel of conduct reviewers has been terminated, conduct reviewers who were members of the panel may continue to deal with any matter referred to them under these procedures prior to the termination of the panel until they have finalised their consideration of the matter.
- 3.11 When the term of the panel of conduct reviewers concludes or is terminated, the council must establish a new panel of conduct reviewers in accordance with the requirements of this Part.
- 3.12 A person who was a member of a previous panel of conduct reviewers established by the council may be a member of subsequent panels of conduct reviewers established by the council if they continue to meet the selection and eligibility criteria for membership of the panel.

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

- 3.13 Despite clause 3.6(d), an employee of a council who is the nominated internal ombudsman of one or more councils may be appointed to a council's panel of conduct reviewers with the Office's consent.
- 3.14 To be appointed to a council's panel of conduct reviewers, an internal ombudsman must meet the qualification requirements for conduct reviewers prescribed under clause 3.5 as modified by the operation of clause 3.13.

- 3.15 An internal ombudsman appointed to a council's panel of conduct reviewers may also exercise the functions of the council's complaints coordinator. For the purposes of clause 6.1, an internal ombudsman who is a council's complaints coordinator and has been appointed to the council's panel of conduct reviewers, may either undertake a preliminary assessment and investigation of a matter referred to them under clauses 5.26 or 5.33 or refer the matter to another conduct reviewer in accordance with clause 6.2.
- 3.16 Clause 6.4(c) does not apply to an internal ombudsman appointed to a council's panel of conduct reviewers.

The appointment of complaints coordinators

- 3.17 The Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer must not undertake the role of complaints coordinator.
- 3.20 The person appointed as complaints coordinator or alternate complaints coordinator must also be a nominated disclosures coordinator appointed for the purpose of receiving and managing reports of wrongdoing under the *Public Interest Disclosures Act 1994*.
- 3.21 The role of the complaints coordinator is to:
- a) coordinate the management of complaints made under the council's code of conduct
 - b) liaise with and provide administrative support to a conduct reviewer
 - c) liaise with the Office and
 - d) arrange the annual reporting of code of conduct complaints statistics.

Part 4 How May Code of Conduct Complaints Be Made?

What is a code of conduct complaint?

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

When must a code of conduct complaint be made?

- 4.4 A code of conduct complaint must be made within 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 Chief Executive Officer or their delegate, or, in the case of a complaint about the Chief Executive Officer, the Lord Mayor or their delegate, is satisfied that the allegations are serious and compelling grounds exist for the matter to be dealt with under the code of conduct. The CEO, Lord Mayor or their delegate has discretion to receive complaints beyond the 3 month period where the matter relates to an allegation of bullying and harassment.

How may a code of conduct complaint about a council official other than the Chief Executive Officer be made?

- 4.6 All code of conduct complaints other than those relating to the Chief Executive Officer are to be made to the Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.
- 4.9 The Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer be made?

- 4.11 Code of conduct complaints about the Chief Executive Officer are to be made to the Lord Mayor in writing. This clause does not operate to prevent a person from making a complaint about the Chief Executive Officer to an external agency.
- 4.12 Where a code of conduct complaint about the Chief Executive Officer 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 Chief Executive Officer, the complainant may nominate whether they want the complaint to be resolved by mediation or by other alternative means.

- 4.14 The Lord Mayor or their delegate, or, where the complaint is referred to a conduct reviewer, the conduct reviewer, must consider the complainant's preferences in deciding how to deal with the complaint.
- 4.15 Notwithstanding clauses 4.11 and 4.12, where the Lord Mayor becomes aware of a possible breach of the council's code of conduct by the Chief Executive Officer, 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 Chief Executive Officer and Lord Mayor of their functions under this Part

- 5.1 The Chief Executive Officer or Lord Mayor may delegate their functions under this Part to a member of staff of the council or to a person or persons external to the council other than an external agency. References in this Part to the Chief Executive Officer or Lord Mayor are also to be taken to be references to their delegates.

Consideration of complaints by Chief Executive Officer and Lord Mayor

- 5.2 In exercising their functions under this Part, the Chief Executive Officer and Lord Mayor 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 Chief Executive Officer or, in the case of a complaint about the Chief Executive Officer, the Lord Mayor, may decline to deal with a complaint under these procedures where they are satisfied that the complaint:
- a) is not a code of conduct complaint, or
 - b) subject to clause 4.5, is not made within 3 months of the alleged conduct occurring or the complainant becoming aware of the alleged conduct, or
 - c) is trivial, frivolous, vexatious or not made in good faith, or
 - d) relates to a matter the substance of which has previously been considered and addressed by the council and does not warrant further action, or
 - e) is not made in a way that would allow the alleged conduct and any alleged breaches of the council's code of conduct to be readily identified.

How are code of conduct complaints about staff (other than the Chief Executive Officer) to be dealt with?

- 5.4 The Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer decides to take no action in relation to a code of conduct complaint about a member of staff of council, the Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer decides to take no action in relation to a code of conduct complaint about a delegate of council or a council committee member, the Chief Executive Officer 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 Chief Executive Officer considers it to be practicable and appropriate to do so, the Chief Executive Officer 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 Chief Executive Officer resolves a code of conduct complaint under clause 5.14 to the Chief Executive Officer's satisfaction, the Chief Executive Officer 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 Chief Executive Officer
 - 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 Chief Executive Officer or any person making enquiries on behalf of the Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer must refer all code of conduct complaints about administrators to the Office for its consideration.
- 5.19 The Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer refers a complaint to the Office under clause 5.20, the Chief Executive Officer must notify the complainant of the referral in writing.
- 5.22 The Chief Executive Officer 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 Chief Executive Officer decides to take no action in relation to a code of conduct complaint about a councillor, the Chief Executive Officer 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 Chief Executive Officer considers it to be practicable and appropriate to do so, the Chief Executive Officer 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 Chief Executive Officer resolves a code of conduct complaint under clause 5.24 to the Chief Executive Officer's satisfaction, the Chief Executive Officer 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 Chief Executive Officer must refer all code of conduct complaints about councillors, other than those referred to the Office under clause 5.20 or finalised under clause 5.23 or resolved under clause 5.24, to the complaints coordinator.

How are code of conduct complaints about the Chief Executive Officer to be dealt with?

- 5.27 The Lord Mayor must refer the following code of conduct complaints about the Chief Executive Officer 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 Lord Mayor refers a complaint to the Office under clause 5.27, the Lord Mayor must notify the complainant of the referral in writing.
- 5.29 The Lord Mayor may decide to take no action in relation to a code of conduct complaint about the Chief Executive Officer, 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 Lord Mayor decides to take no action in relation to a code of conduct complaint about the Chief Executive Officer, the Lord Mayor must give the complainant reasons in writing for their decision within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.
- 5.31 Where the Lord Mayor considers it to be practicable and appropriate to do so, the Lord Mayor may seek to resolve code of conduct complaints about the Chief Executive Officer, 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 Lord Mayor resolves a code of conduct complaint under clause 5.31 to the Lord Mayor's satisfaction, the Lord Mayor must notify the complainant in writing of the steps

taken to resolve the complaint within 21 days of receipt of the complaint and this shall finalise the consideration of the matter under these procedures.

- 5.33 The Lord Mayor must refer all code of conduct complaints about the Chief Executive Officer, other than those referred to the Office under clause 5.27 or finalised under clause 5.30 or resolved under clause 5.31, to the complaints coordinator.

How are complaints about both the Chief Executive Officer and the Lord Mayor to be dealt with?

- 5.34 Where the Chief Executive Officer or Lord Mayor receives a code of conduct complaint that alleges a breach of the code of conduct by both the Chief Executive Officer and the Lord Mayor, the Chief Executive Officer or Lord Mayor must either:
- a) delegate their functions under this part with respect to the complaint to a member of staff of the council other than the Chief Executive Officer where the allegation is not serious, or to a person external to the council, or
 - b) refer the matter to the complaints coordinator under clause 5.26 and clause 5.33.

Referral of code of conduct complaints to external agencies

- 5.35 The Chief Executive Officer, Lord Mayor or a conduct reviewer may, at any time, refer a code of conduct complaint to an external agency for its consideration, where they consider such a referral is warranted.
- 5.36 The Chief Executive Officer, Lord Mayor or a conduct reviewer must report to the ICAC any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct.
- 5.37 Where the Chief Executive Officer, Lord Mayor or conduct reviewer refers a complaint to an external agency under clause 5.35, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 5.38 Referral of a matter to an external agency shall finalise consideration of the matter under these procedures unless the council is subsequently advised otherwise by the referral agency.

Disclosure of the identity of complainants

- 5.39 In dealing with matters under these procedures, information that identifies or tends to identify complainants is not to be disclosed unless:
- a) the complainant consents in writing to the disclosure, or

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

5.40 Clause 5.39 does not apply to code of conduct complaints made by councillors about other councillors or the Chief Executive Officer.

5.41 Where a councillor makes a code of conduct complaint about another councillor or the Chief Executive Officer, 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 Chief Executive Officer or Lord Mayor, and where the matter is referred to a conduct reviewer, the conduct reviewer, must consider a request made under clause 5.41 before disclosing information that identifies or tends to identify the complainant councillor, but they are not obliged to comply with the request.

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

Code of conduct complaints made as public interest disclosures

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

5.46 Where a councillor makes a code of conduct complaint about another councillor or the Chief Executive Officer 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 Chief Executive Officer or the Lord Mayor must refer the complaint to the Office for consideration. Such a referral must be made under section 26 of the Public Interest Disclosures Act 1994.

Special complaints management arrangements

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

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

- a) imposed an undue and disproportionate cost burden on the council's administration of its code of conduct, or
- b) impeded or disrupted the effective administration by the council of its code of conduct, or
- c) impeded or disrupted the effective functioning of the council.

5.50 A special complaints management arrangement must be in writing and must specify the following:

- a) the code of conduct complaints the arrangement relates to, and
- b) the period that the arrangement will be in force.

5.51 The Office may, by notice in writing, amend or terminate a special complaints management arrangement at any time.

5.52 While a special complaints management arrangement is in force, an officer of the Office (the assessing OLG officer) must undertake the preliminary assessment of the code of conduct complaints specified in the arrangement in accordance with the requirements of Part 6 of these procedures.

5.53 Where, following a preliminary assessment, the assessing OLG officer determines that a code of conduct complaint warrants investigation by a conduct reviewer, the assessing OLG officer shall notify the complaints coordinator in writing of their determination and the reasons for their determination. The complaints coordinator must comply with the recommendation of the assessing OLG officer.

1.54 Prior to the expiry of a special complaints management arrangement, the Office may, at the request of the Chief Executive Officer, 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 Chief Executive Officer by Conduct Reviewers

Referral of code of conduct complaints about councillors or the Chief Executive Officer to conduct reviewers

- 6.1 The complaints coordinator must refer all code of conduct complaints about councillors or the Chief Executive Officer that have not been referred to an external agency or declined or resolved by the Chief Executive Officer, Lord Mayor or their delegate and that have been referred to them under clauses 5.26 or 5.33, to a conduct reviewer within 21 days of receipt of the complaint by the Chief Executive Officer or the Lord Mayor.
- 6.2 For the purposes of clause 6.1, the complaints coordinator will refer a complaint to a conduct reviewer selected from:
- a) a panel of conduct reviewers established by the council, or
 - b) a panel of conduct reviewers established by an organisation approved by the Office.
- 6.3 In selecting a suitable conduct reviewer, the complaints coordinator may have regard to the qualifications and experience of members of the panel of conduct reviewers. Where the conduct reviewer is an incorporated or other entity, the complaints coordinator must also ensure that the person assigned to receive the referral on behalf of the entity meets the selection and eligibility criteria for conduct reviewers prescribed under Part 3 of these procedures.

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

Preliminary assessment of code of conduct complaints about councillors or the Chief Executive Officer 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 Chief Executive Officer or, in the case of a complaint about the Chief Executive Officer, the Lord Mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
 - d) to refer the matter to an external agency
 - e) to investigate the matter.
- 6.14 In determining how to deal with a matter under clause 6.13, the conduct reviewer must have regard to the complaint assessment criteria prescribed under clause 6.31.
- 6.15 The conduct reviewer may make such enquiries the conduct reviewer considers to be reasonably necessary to determine what options to exercise under clause 6.13.
- 6.16 The conduct reviewer may request the complaints coordinator to provide such additional information the conduct reviewer considers to be reasonably necessary to determine what options to exercise in relation to the matter under clause 6.13. The complaints coordinator will, as far as is reasonably practicable, supply any information requested by the conduct reviewer.
- 6.17 The conduct reviewer must refer to the Office any complaints referred to them that should have been referred to the Office under clauses 5.20 and 5.27.
- 6.18 The conduct reviewer must determine to take no action on a complaint that is not a code of conduct complaint for the purposes of these procedures.

- 6.19 The resolution of a code of conduct complaint under clause 6.13, paragraphs (b) or (c) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 6.20 Where the conduct reviewer completes their preliminary assessment of a complaint by determining to exercise an option under clause 6.13, paragraphs (a), (b) or (c), they must provide the complainant with written notice of their determination and provide reasons for it, and this will finalise consideration of the matter under these procedures.
- 6.21 Where the conduct reviewer refers a complaint to an external agency, they must notify the complainant of the referral in writing unless they form the view, on the advice of the relevant agency, that it would not be appropriate for them to do so.
- 6.22 The conduct reviewer may only determine to investigate a matter where they are satisfied as to the following:
- a) that the complaint is a code of conduct complaint for the purposes of these procedures, and
 - b) that the alleged conduct is sufficiently serious to warrant the formal censure of a councillor under section 440G of the LGA or disciplinary action against the general manager under their contract of employment if it were to be proven, and
 - c) that the matter is one that could not or should not be resolved by alternative means.
- 6.23 In determining whether a matter is sufficiently serious to warrant formal censure of a councillor under section 440G of the LGA or disciplinary action against the Chief Executive Officer under their contract of employment, the conduct reviewer is to consider the following:
- a) the harm or cost that the alleged conduct has caused to any affected individuals and/or the council
 - b) the likely impact of the alleged conduct on the reputation of the council and public confidence in it
 - c) whether the alleged conduct was deliberate or undertaken with reckless intent or negligence
 - d) any previous proven breaches by the person whose alleged conduct is the subject of the complaint and/or whether the alleged conduct forms part of an ongoing pattern of behaviour.
- 6.24 The conduct reviewer must complete their preliminary assessment of the complaint within 28 days of referral of the matter to them by the complaints coordinator and notify the complaints coordinator in writing of the outcome of their assessment.
- 6.25 The conduct reviewer is not obliged to give prior notice to or to consult with any person before making a determination in relation to their preliminary assessment of a complaint, except as may be specifically required under these procedures.

Referral back to the Chief Executive Officer or Lord Mayor for resolution

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

Complaints assessment criteria

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

- g) whether the complaint is one that can be resolved by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour
- h) whether the issue/s giving rise to the complaint have previously been addressed or resolved
- i) any previous proven breaches of the council's code of conduct
- j) whether the conduct complained of forms part of an ongoing pattern of behaviour
- k) whether there were mitigating circumstances giving rise to the conduct complained of
- l) the seriousness of the alleged conduct (having regard to the criteria specified in clause 6.23)
- m) the significance of the conduct or the impact of the conduct for the council
- n) how much time has passed since the alleged conduct occurred
- o) such other considerations that the conduct reviewer considers may be relevant to the assessment of the complaint.

Part 7 Investigations of Code of Conduct Complaints about Councillors or The Chief Executive Officer

What matters may a conduct reviewer investigate?

- 7.1 A conduct reviewer (hereafter referred to as an “investigator”) may investigate a code of conduct complaint that has been referred to them by the complaints coordinator and any matters related to or arising from that complaint.
- 7.2 Where an investigator identifies further separate possible breaches of the code of conduct that are not related to or do not arise from the code of conduct complaint that has been referred to them, they are to report the matters separately in writing to the Chief Executive Officer, or, in the case of alleged conduct on the part of the Chief Executive Officer, to the Lord Mayor.
- 7.3 The Chief Executive Officer or the Lord Mayor or their delegate is to deal with a matter reported to them by an investigator under clause 7.2 as if it were a new code of conduct complaint in accordance with these procedures.

How are investigations to be commenced?

- 7.4 The investigator must at the outset of their investigation provide a written notice of investigation to the respondent. The notice of investigation must:
- disclose the substance of the allegations against the respondent, and
 - advise of the relevant provisions of the code of conduct that apply to the alleged conduct, and
 - advise of the process to be followed in investigating the matter, and
 - advise the respondent of the requirement to maintain confidentiality, and
 - 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 Chief Executive Officer, or in the case of a complaint about the Chief Executive Officer, to the complainant, the complaints coordinator and the Lord Mayor. The notice must:
- a) advise them of the matter the investigator is investigating, and
 - b) in the case of the notice to the complainant, advise them of the requirement to maintain confidentiality, and
 - c) invite the complainant to make a written submission in relation to the matter within a period of not less than 14 days specified by the investigator in the notice.

Written and oral submissions

- 7.9 Where the respondent or the complainant fails to make a written submission in relation to the matter within the period specified by the investigator in their notice of investigation or amended notice of investigation, the investigator may proceed to prepare their draft report without receiving such submissions.
- 7.10 The investigator may accept written submissions received outside the period specified in the notice of investigation or amended notice of investigation.
- 7.11 Prior to preparing a draft report, the investigator must give the respondent an opportunity to address the investigator on the matter being investigated. The respondent may do so in person or by telephone or other electronic means.
- 7.12 Where the respondent fails to accept the opportunity to address the investigator within the period specified by the investigator in the notice of investigation, the investigator may proceed to prepare a draft report without hearing from the respondent.

- 7.13 Where the respondent accepts the opportunity to address the investigator in person, they may have a support person or legal adviser in attendance. The support person or legal adviser will act in an advisory or support role to the respondent only. They must not speak on behalf of the respondent or otherwise interfere with or disrupt proceedings.
- 7.14 The investigator must consider all written and oral submissions made to them in relation to the matter.

How are investigations to be conducted?

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

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

- 7.20 At any time after an investigator has issued a notice of investigation and before they have issued their final report, an investigator may determine to:
- a) resolve the matter by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
 - b) refer the matter to the Chief Executive Officer, or, in the case of a complaint about the Chief Executive Officer, to the Lord Mayor, for resolution by alternative and appropriate strategies such as, but not limited to, explanation, counselling, training, mediation, informal discussion, negotiation, a voluntary apology or an undertaking not to repeat the offending behaviour, or
 - c) refer the matter to an external agency.
- 7.21 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they must do so in accordance with the requirements of

Part 6 of these procedures relating to the exercise of these options at the preliminary assessment stage.

- 7.22 The resolution of a code of conduct complaint under clause 7.20, paragraphs (a) or (b) is not to be taken as a determination that there has been a breach of the council's code of conduct.
- 7.23 Where an investigator determines to exercise any of the options under clause 7.20 after the commencement of an investigation, they may by written notice to the respondent, the complainant, the complaints coordinator and the Chief Executive Officer, or in the case of a complaint about the Chief Executive Officer, to the respondent, the complainant, the complaints coordinator and the Lord Mayor, discontinue their investigation of the matter.
- 7.24 Where the investigator discontinues their investigation of a matter under clause 7.23, this shall finalise the consideration of the matter under these procedures.
- 7.25 An investigator is not obliged to give prior notice to or to consult with any person before making a determination to exercise any of the options under clause 7.20 or to discontinue their investigation except as may be specifically required under these procedures.

Draft investigation reports

- 7.26 When an investigator has completed their enquiries and considered any written or oral submissions made to them in relation to a matter, they must prepare a draft of their proposed report.
- 7.27 The investigator must provide their draft report to the respondent and invite them to make a written submission in relation to it within a period of not less than 14 days specified by the investigator.
- 7.28 Where the investigator proposes to make adverse comment about any other person (an affected person) in their report, they must also provide the affected person with relevant extracts of their draft report containing such comment and invite the affected person to make a written submission in relation to it within a period of not less than 14 days specified by the investigator.
- 7.29 The investigator must consider written submissions received in relation to the draft report prior to finalising their report in relation to the matter.
- 7.30 The investigator may, after consideration of all written submissions received in relation to their draft report, make further enquiries into the matter. If, as a result of making further enquiries, the investigator makes any material change to their proposed report that makes new adverse comment about the respondent or an affected person, they must provide the respondent or affected person as the case may be with a further opportunity to make a written submission in relation to the new adverse comment.

- 7.31 Where the respondent or an affected person fails to make a written submission in relation to the draft report within the period specified by the investigator, the investigator may proceed to prepare and issue their final report without receiving such submissions.
- 7.32 The investigator may accept written submissions in relation to the draft report received outside the period specified by the investigator at any time prior to issuing their final report.

Final investigation reports

- 7.33 Where an investigator issues a notice of investigation they must prepare a final report in relation to the matter unless the investigation is discontinued under clause 7.23.
- 7.34 An investigator must not prepare a final report in relation to the matter at any time before they have finalised their consideration of the matter in accordance with the requirements of these procedures.
- 7.35 The investigator's final report must:
- a) make findings of fact in relation to the matter investigated, and,
 - b) make a determination that the conduct investigated either,
 - i) constitutes a breach of the code of conduct, or
 - ii) does not constitute a breach of the code of conduct, and
 - c) provide reasons for the determination.
- 7.36 At a minimum, the investigator's final report must contain the following information:
- a) a description of the allegations against the respondent
 - b) the relevant provisions of the code of conduct that apply to the alleged conduct investigated
 - c) a statement of reasons as to why the matter warranted investigation (having regard to the criteria specified in clause 6.23)
 - d) a statement of reasons as to why the matter was one that could not or should not be resolved by alternative means
 - e) a description of any attempts made to resolve the matter by use of alternative means
 - f) the steps taken to investigate the matter
 - g) the facts of the matter
 - h) the investigator's findings in relation to the facts of the matter and the reasons for those findings
 - i) the investigator's determination and the reasons for that determination
 - j) any recommendations.

- 7.37 Where the investigator determines that the conduct investigated constitutes a breach of the code of conduct, the investigator may recommend:
- a) in the case of a breach by the Chief Executive Officer, that disciplinary action be taken under the Chief Executive Officer'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 Chief Executive Officer or, where the report relates to the Chief Executive Officer's conduct, to the Lord Mayor, and this will finalise consideration of the matter under these procedures.

- 7.44 Where the investigator has determined that there has been a breach of the code of conduct and makes a recommendation or recommendations under clause 7.37, the complaints coordinator must, where practicable, arrange for the investigator's report to be reported to the next ordinary council meeting for the council's consideration, unless the meeting is to be held within the 4 weeks prior to an ordinary local government election, in which case the report must be reported to the first ordinary council meeting following the election.
- 7.45 Where it is apparent to the complaints coordinator that the council will not be able to form a quorum to consider the investigator's report, the complaints coordinator must refer the investigator's report to the Office for its consideration instead of reporting it to the council under clause 7.44.

Consideration of the final investigation report by council

- 7.46 The role of the council in relation to a final investigation report is to impose a sanction if the investigator has determined that there has been a breach of the code of conduct and has made a recommendation in their final report under clause 7.37.
- 7.47 The council is to close its meeting to the public to consider the final investigation report in cases where it is permitted to do so under section 10A of the LGA.
- 7.48 Where the complainant is a councillor, they must absent themselves from the meeting and take no part in any discussion or voting on the matter. The complainant councillor may absent themselves without making any disclosure of interest in relation to the matter unless otherwise required to do so under the code of conduct.
- 7.49 Prior to imposing a sanction, the council must provide the respondent with an opportunity to make a submission to the council. A submission may be made orally or in writing. The respondent is to confine their submission to addressing the investigator's recommendation/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.
- 7.57 The council is only required to provide the respondent a further opportunity to make an oral or written submission on a supplementary report if the supplementary report contains new information that is adverse to them.
- 7.58 A council may by resolution impose one of the following sanctions on a respondent:
- a) in the case of a breach by the Chief Executive Officer, that disciplinary action be taken under the Chief Executive Officer's contract of employment for the breach, or
 - b) in the case of a breach by a councillor, that the councillor be formally censured for the breach under section 440G of the LGA, or
 - c) in the case of a breach by a councillor:
 - i) that the councillor be formally censured for the breach under section 440G of the LGA, and
 - ii) that the matter be referred to the Office for further action under the misconduct provisions of the LGA.
- 7.59 Where the council censures a councillor under section 440G of the LGA, the council must specify in the censure resolution the grounds on which it is satisfied that the councillor should be censured by disclosing in the resolution, the investigator's findings and determination and/or such other grounds that the council considers may be relevant or appropriate.
- 7.60 The council is not obliged to adopt the investigator's recommendation. Where the council proposes not to adopt the investigator's recommendation, the council must resolve not to adopt the recommendation and state in its resolution the reasons for its decision.
- 7.61 Where the council resolves not to adopt the investigator's recommendation, the complaints coordinator must notify the Office of the council's decision and the reasons for it.

Part 8 Oversight and Rights of Review

The Office's powers of review

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

Complaints about conduct reviewers

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

Practice rulings

- 8.7 Where a respondent and an investigator are in dispute over a requirement under these procedures, either person may make a request in writing to the Office to make a ruling on a question of procedure (a practice ruling).

- 8.8 Where the Office receives a request in writing for a practice ruling, the Office may provide notice in writing of its ruling and the reasons for it to the person who requested it and to the investigator, where that person is different.
- 8.9 Where the Office makes a practice ruling, all parties must comply with it.
- 8.10 The Office may decline to make a practice ruling. Where the Office declines to make a practice ruling, it will provide notice in writing of its decision and the reasons for it to the person who requested it and to the investigator, where that person is different.

Review of decisions to impose sanctions

- 8.11 A person who is the subject of a sanction imposed under Part 7 of these procedures other than one imposed under clause 7.58, paragraph (c), may, within 28 days of the sanction being imposed, seek a review of the investigator's determination and recommendation by the Office.
- 8.12 A review under clause 8.11 may be sought on the following grounds:
- a) that the investigator has failed to comply with a requirement under these procedures, or
 - b) that the investigator has misinterpreted or misapplied the standards of conduct prescribed under the code of conduct, or
 - c) that in imposing its sanction, the council has failed to comply with a requirement under these procedures.
- 8.13 A request for a review made under clause 8.11 must be made in writing and must specify the grounds upon which the person believes the investigator or the council has erred.
- 8.14 The Office may decline to conduct a review, in cases where the grounds upon which the review is sought are not sufficiently specified.
- 8.15 The Office may undertake a review of a matter without receiving a request under clause 8.11.
- 8.16 The Office will undertake a review of the matter on the papers. However, the Office may request that the complaints coordinator provide such further information that the Office considers reasonably necessary for it to review the matter. The complaints coordinator must, as far as is reasonably practicable, provide the information requested by the Office.
- 8.17 Where a person requests a review under clause 8.11, the Office may direct the council to defer any action to implement a sanction. The council must comply with a direction to defer action by the Office.

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

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

8.19 Where the Office recommends that the decision to impose a sanction be reviewed:

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

b) the council must:

i) review its decision to impose the sanction, and

ii) consider the Office's recommendation in doing so, and

iii) resolve to either rescind or reaffirm its previous resolution in relation to the matter.

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

Part 9 Procedural Irregularities

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

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.

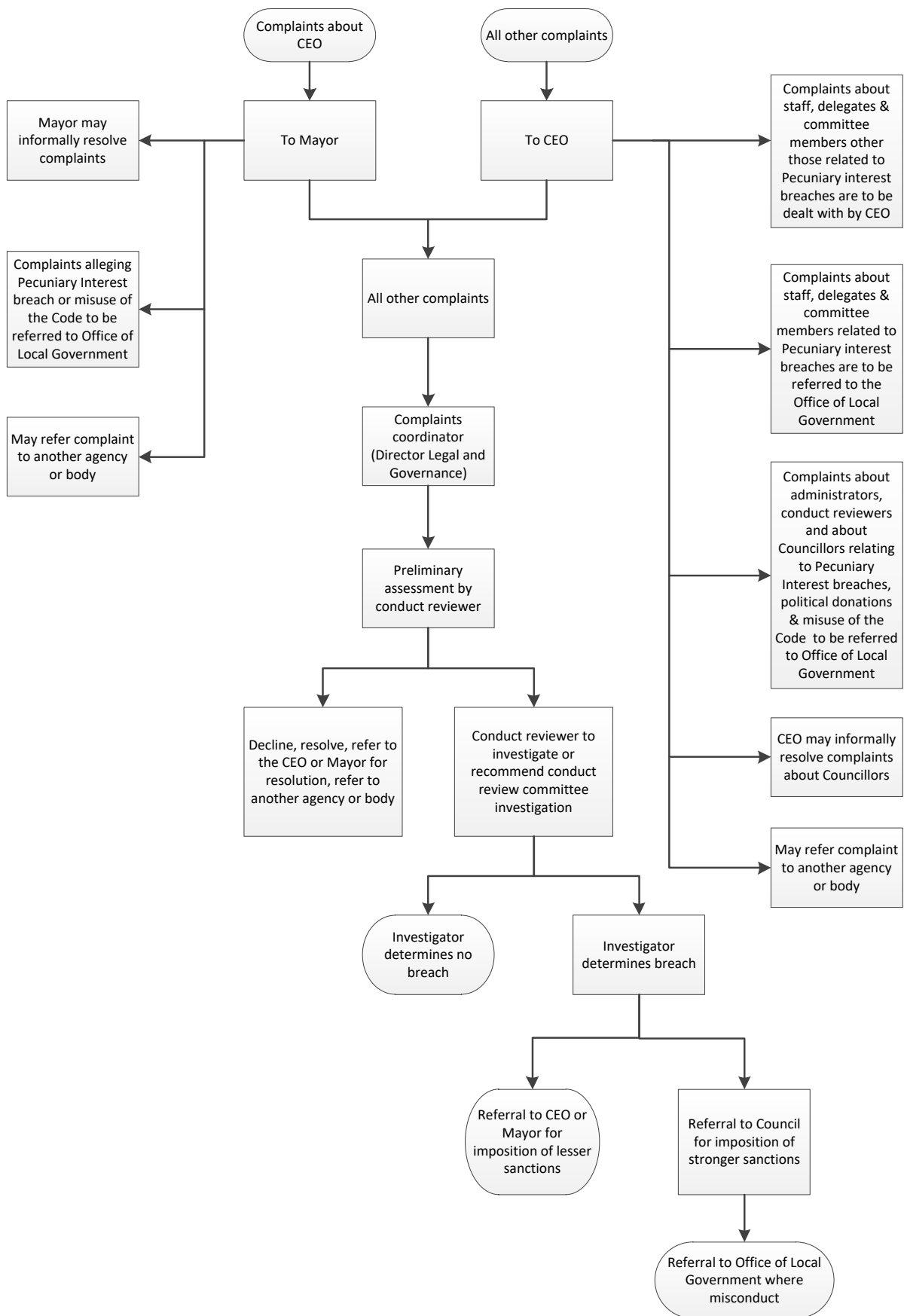
Part 11 Reporting Statistics on Code of Conduct Complaints about Councillors and the Chief Executive Officer

- 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer or their delegate.
- 12.5 The Chief Executive Officer 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 Chief Executive Officer 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 Chief Executive Officer 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.

Model Code Procedure Flowchart





Attachment C

**Councillor Meetings with Registered Lobbyists
and Property Developers Policy**

Policy - Councillor meetings with registered lobbyists and property developers

Purpose

To outline requirements for the Lord Mayor and Councillors to publish details of meetings with registered lobbyists and property developers.

Scope

This policy applies to the Lord Mayor and Councillors in relation to meetings held in their capacity as a City of Sydney Councillor or directly relating to matters involving the City of Sydney Council.

This policy does not apply to meetings at which the Lord Mayor or a Councillor is not in attendance.

Definitions

Term	Meaning
Registered lobbyist	A lobbyist who is required to register with the NSW Electoral Commission under the Lobbying of Government Officials Act 2011, sections 9(1) and 9(2), as follows: <i>9(1) A third-party lobbyist is required to be registered in the Lobbyists Register.</i> <i>9(2) An individual engaged to undertake lobbying for a third-party lobbyist is required to be registered in the Lobbyists Register in respect of the third-party lobbyist.</i>
Lobbyists Register	The Register of Third-Party Lobbyists maintained by the NSW Electoral Commission in accordance with s8(1) of the Lobbying of Government Officials Act 2011
Property developer	An individual or a corporation that carries on a business mainly concerned with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit as defined in the Electoral Funding Act 2018; or Any other party proposing development that would be the subject of a decision by resolution of Council and/or the Central Sydney Planning Committee.
Meeting	A discussion which may be face to face, online or by telephone.

Policy Statement

Lobbying is an integral and legitimate activity for the functioning of a democratic system.

Lobbying also carries inherent risks of corruption, undue influence, unfair access and biased decision-making that are detrimental to the public interest and effective local governance.

It is in the public interest that lobbying is fair and does not undermine public confidence in impartial decision-making. This policy aims to ensure community expectations are met in relation to ethical and transparent lobbying of Councillors.

Records of meetings

~~This policy will commence on 8 April 2024.~~

Councillors are required to record all meetings with registered lobbyists and property developers, and the purpose of the meeting, from that date. Meetings recorded should include scheduled or organised meetings as well as any substantial or significant discussions held outside a scheduled meeting.

Councillors should always be aware of their obligations under the Code of Conduct, and the obligations in this policy are in addition to the requirements of the Code of Conduct. This includes, but is not limited to, clauses 3.13 and 3.14 of the Code of Conduct relating to land use planning, development assessment and regulatory decisions.

Councillors are not required to record requests for meetings which are not accepted, only meetings which they participate in.

Councillors are required to complete the form at **Attachment A** and submit it to the Office of the CEO every three months. Forms are to be submitted to the Office of the CEO within one week of the end of the relevant reporting period.

Councillors are required to submit a 'nil' return if they have not held any relevant meetings.

It is the responsibility of Councillors to undertake the required due diligence to ensure that any meetings held with registered lobbyists and property developers are recorded on the form.

The Office of the CEO will publish the forms on the City's website within three weeks of the end of the relevant reporting period. The forms will remain on the website for 12 months. Where a Councillor does not submit a form for a relevant period this will be noted on the City's website.

Training

Councillors will be trained in this Policy as part of the induction process following each election.

Compliance

A failure to comply with this policy or to provide true and accurate records may constitute a breach of the City’s Code of Conduct.

Responsibilities

Office of the CEO will:

- Publish records of meetings with registered lobbyists and property developers on the City’s website
- Update the website every three months
- Remove entries after 12 months

The Lord Mayor and Councillors will:

- Complete and sign the form at Attachment A every three months, including where no relevant meetings have been held
- Undertake the necessary due diligence to ensure the form is complete and accurate
- Submit the form to the Office of the CEO within one week of the end of the reporting period.

Consultation

The Lord Mayor and Councillors, Office of the Chief Executive Officer, Risk and Governance and Legal Services have been consulted in the development of this policy.

References

Laws and Standards
<ul style="list-style-type: none"> • Lobbying of Government Officials Act 2001 (NSW) • Electoral Funding Act 2018 (NSW)
Policies and Procedures
<ul style="list-style-type: none"> • Code of Conduct
Other
<ul style="list-style-type: none"> • Council resolution NOM 14.10 - 19 February 2024 • Premier’s Memorandum M2015-05-Publication of Ministerial Diaries and Release of Overseas Travel Information.

Review period

The Policy will be reviewed and put to Council for endorsement following every Council election, in conjunction with the Code of Conduct.

Approval Status

Council approved this policy on [] 2024.

Approval History

Stage	Date	Comment	TRIM Reference
Original Policy	8 April 2024	Approved by Council	2024/238651
Reviewed			
Commence Review Date			
Approval Due Date			

Ownership and approval

Responsibility	Role
Author	Manager, OCEO
Owner	Manager, OCEO
Endorser	Chief Executive Officer
Approver	City of Sydney Council

ATTACHMENT A - RECORD OF MEETINGS WITH REGISTERED LOBBYISTS AND PROPERTY DEVELOPERS

Councillor Name:

Period:

Councillors must disclose all meetings with registered lobbyists and property developers for the period on this form.

It is the responsibility of the Councillor to undertake the required due diligence to ensure that any meetings held with registered lobbyists and property developers are recorded. In relation to registered lobbyists, this should include a review of the register of lobbyists which can be found at - <https://elections.nsw.gov.au/funding-and-disclosure/public-register-and-lists/register-of-third-party-lobbyists>

If no meetings with registered lobbyists or property developers have been held, please enter "NIL" in the below table and sign and submit the form.

Date	Organisation / Individuals in attendance	Purpose of Meeting

Councillors must inform relevant persons at the time of meeting that their name and purpose of the meeting will be published on the City's website in accordance with the Councillor meetings with registered lobbyists and property developers policy.

I confirm that I have undertaken the required due diligence to comply with the Councillor meetings with registered lobbyists and property developers policy and that the information I have provided on this form is complete and accurate.

Councillor signature:

Date:

Attachment D

**Delegations to the Lord Mayor dated
22 August 2022**

Delegations to the Lord Mayor

Resolution of Council: 22 August 2022

Responsibility:
Legal & Governance

COUNCIL OF THE CITY OF SYDNEY
DELEGATIONS TO THE LORD MAYOR

INTERPRETATION OF DELEGATIONS

- A. This instrument of delegation should be construed as operating in a manner which is valid and within the powers conferred on the Council under the Local Government Act 1993.
- B. References to the Chief Executive Officer are references to the general manager appointed under the Local Government Act 1993.
- C. References to the decisions of Council are references to decisions made by Council from time to time.
- D. References to policies of the Council are references to policies adopted by Council from time to time.
- E. These delegations are not intended to limit the Lord Mayor's ability to carry out such other functions and exercise such other powers as the Council may determine from time to time or as may be functions of the Lord Mayor under the Local Government Act 1993 or the City of Sydney Act 1988.

DELEGATIONS

Subject to the powers, authorities, duties and functions of Council:

- 1. reserved to the Council by Section 377 and Section 379 of the Local Government Act 1993;
- 2. which are required by any legislation or instrument to be performed by the Council;
- 3. delegated to the Chief Executive Officer by Council resolution from time to time;

Council delegates to the Lord Mayor, on an ongoing basis, the following powers, authorities, duties and functions which are to be exercised in a manner consistent with Council's policies and decisions as applicable from time to time:

General and Policy Direction

- 1. to direct the Chief Executive Officer;

Management of Council meetings and business

- 2. the authority to call and schedule meetings of Council Committees, briefings of Councillors and inspections by Councillors;
- 3. to request the Chief Executive Officer include items on the agendas for all meetings of Council and Council Committees, provided that if the Council has by resolution determined that a specific item should be placed on its agenda, the function exercised under this delegation must be exercised in accordance with that resolution;
- 4. and any other chairperson, for the purposes of subsection 10(2) of the Local Government Act 1993, the power to expel a person or persons from the following meetings:

- a) a Council meeting; and
- b) a meeting of a Council Committee of which all members are Councillors;

Expenditure

- 5. with the prior consultation of the Chief Executive Officer, approve all expenditure from contingency funds, other than the Chief Executive Officer's contingency fund, provided it is within the terms of the budget adopted by Council;
- 6. to approve:
 - a) all reasonable international travel by staff for Council related business; and
 - b) all reasonable associated expenses with any such travel,noting that any such approved expenses are to be reported in the annual report and the quarterly performance reports to Council;

External relations and representations

- 7. to approve all media statements and publications issued on behalf of Council, unless Council determines otherwise on a specific issue;
- 8. to determine who should represent Council on external organisations and committees and inter-agency working parties, provided that where a staff member is proposed to represent Council, the Lord Mayor must first consult with the Chief Executive Officer;
- 9. to determine who should represent Council at civic, ceremonial and social functions where:
 - a) the Lord Mayor is unable to attend; and
 - b) Council has not determined its representative;provided that where a staff member is proposed to represent Council, the Lord Mayor must first consult with the Chief Executive Officer;
- 10. to determine who Civic awards and honours such as keys to the city should be presented;
- 11. to determine other matters of protocol where required;

Performance Management of Chief Executive Officer

- 12. to negotiate and settle terms of a contract of employment with the Chief Executive Officer (**CEO Contract**) including determining the appropriate remunerations and inform Councillors accordingly;
- 13. in consultation with the Councillors in respect of material variations, to vary the terms and conditions of the CEO Contract;
- 14. to administer the CEO Contract including, but not limited to, approving annual leave and settling performance standards;

15. to extend the term of the CEO Contract for a period of up to three months, provided the CEO Contract allows for this extension;
16. to accept the resignation of the Chief Executive Officer;
17. to suspend the Chief Executive Officer at short notice and, only in accordance with a resolution of Council, terminate the Chief Executive Officer's employment;
18. to negotiate and settle termination arrangements with the Chief Executive Officer in accordance with the CEO contract;
19. to appoint a Director (M2) to act as Chief Executive Officer from time to time, due to the absence of the Chief Executive Officer for any reason, other than the taking of annual leave, such appointment is to be considered by Council at the earliest opportunity;

Organisational Accountability

20. to review, approve and implement governance and accountability structures and processes for the performance of the organisation;
21. to oversee, through the Chief Executive Officer, the performance of the organisation and program areas within the organisation;
22. to direct Council's internal auditor to carry out a review or audit of the organisation;
23. to obtain direct and independent advice relevant to Council functions, all such cases to be reported to Council;
24. to make minor changes to the structure of the organisation;

Authority to Obtain Legal Services

25. to instruct Council's legal representatives, directly or through the Chief Executive Officer or General Counsel, noting that if the instructions are not consistent with Council policies or decisions (such as to settle court proceedings where Council's prospects are poor) the Lord Mayor has been advised by the General Counsel or the Chief Executive Officer or external counsel that it is in Council's interest to do so;
26. to instruct Council's legal representatives to commence legal proceedings, including an appeal:
 - a) in consultation with the Chief Executive Officer and the General Counsel; or
 - b) in consultation with at least two Councillors if the legal proceedings involve the Chief Executive Officer or the General Counsel,

noting that any such instructions given are to be reported to Councillors in the next CEO Update issued to Councillors;

Mayoral and Civic Role

27. in consultation with the Chief Executive Officer, and in accordance with relevant policies and procedures, in respect of the Office of the Lord Mayor:
- a) determine the structure of the Unit;
 - b) allocate expenditure within the Unit, not exceeding the global budget of the Unit approved annually by Council;
 - c) determine the number and description of all staff positions;
 - d) be fully and formally consulted in respect of the appointment and dismissal of all staff;
 - e) direct staff within the Unit and allocate tasks;

General authority of Council during recesses

28. to exercise the powers, authorities, duties and functions of Council during the period:
- a) commencing at midnight on the day of the Council meeting held immediately before a recess period as approved by Council; and
 - b) ending at the time of commencement of the first Committee meeting held immediately after the end of a recess period as approved by Council,
- provided:
- c) reports or other business papers in a form similar to those normally submitted to Council or a Council Committee are provided to the Lord Mayor and Councillors at least three business days prior to the Lord Mayor exercising any powers, authorities, duties and functions of Council under this delegation; and
 - d) the Lord Mayor does not receive written objections by three or more Councillors on an item stating relevant reasons as to why the Lord Mayor should not exercise any powers, authorities, duties and functions of Council in relation to that item, under this delegation; and
 - e) any powers, authorities, duties and functions of Council exercised by the Lord Mayor pursuant to this delegation are to be reported to Councillors on a weekly basis in the CEO's Update.

Attachment E

**Delegations to the Chief Executive Officer
dated 22 August 2022**

Delegations to the Chief Executive Officer

Resolution of Council: 22 August 2022

Responsibility: Legal & Governance

Notes: 22 December 2022 - Deletion of expired Temporary Covid-19 Delegation 18C
16 March 2023 – Deletion of expired Temporary Covid-19 Delegation 18B
12 March 2024 – Deletion of expired Temporary Covid-19 Delegation 18A

COUNCIL OF THE CITY OF SYDNEY

DELEGATIONS TO THE CHIEF EXECUTIVE OFFICER

INTERPRETATION OF DELEGATIONS

- A. This instrument of delegation should be construed as operating in a manner which is valid and within the powers conferred on the Council under the Local Government Act 1993.
- B. References to the Chief Executive Officer are references to the general manager appointed under the Local Government Act 1993.
- C. References to the decisions of Council are references to decisions made by Council from time to time.
- D. References to policies of the Council are references to policies adopted by Council from time to time.
- E. These delegations are not intended to limit the Chief Executive Officer's ability to carry out such other functions and exercise such other powers as the Council may determine from time to time or as may be functions of the Chief Executive Officer under the Local Government Act 1993.

DELEGATIONS

Subject to the powers, authorities, duties and functions of Council:

- 1. reserved to the Council by Section 377 and Section 379 of the Local Government Act 1993;
- 2. which are required by any legislation or instrument to be performed by the Council;
- 3. delegated to the Lord Mayor by Council resolution from time to time;
- 4. reserved to Council as set out at items 19 to 48 below (**Council Reserved Functions**),

Council delegates to the person holding the position of Chief Executive Officer, on an ongoing basis its functions:

- a) under the Local Government Act 1993 and any other legislation conferring functions on the Council; and
- b) as set out at items 1 to 18D below (**Specific CEO Delegated Functions**),

which are to be exercised in a manner consistent with Council's policies and decisions as applicable from time to time:

SPECIFIC CEO DELEGATED FUNCTIONS

BUDGET AND RESOURCE ALLOCATION

Acceptance of tenders

5. approve the acceptance of tenders involving an estimated expenditure or receipt of an amount of \$5 million or less including GST with the prior consultation of the Chief Financial Officer, following a tender process in accordance with the Local Government Act 1993 and relevant regulations;

Variations to contracts – contracts approved by CEO

6. with the prior consultation of the Chief Procurement Officer, approve variations of any contract sum or contract contingency that are 10% or less of the total expenditure previously approved by the CEO, provided:
 - a. there is no material change in scope; and
 - b. the total value of the contract remains under \$5 million including GST for the initial term and any extensions of the contract.

Note:

- *Total expenditure previously approved is the contract sum and any contingency OR contract sum, schedule of rates and any contingency.*
- *This delegation applies to contracts that were recommended by the Tender Review Group (TRG) & CFO and approved by CEO;*

Variations to contracts – contracts approved by Council

7. with the prior consultation of the Lord Mayor, approve variations of any contract sum or contract contingency exceeding the total expenditure previously approved by Council for any variations that are cumulatively 10% or less of the total expenditure previously approved by Council, provided the CEO has obtained advice from the Tender Review Group recommending the variation be approved;

Note: examples of variations include additional scope or an extension of time that result in an increase in the total expenditure previously approved by Council.

Contingency

8. with the prior consultation of the Lord Mayor, authorising any expenditure from operational contingency funds (consultation not required for the Chief Executive Officer's contingency fund) within the annual budget;

Association Memberships

9.
 - a. approving memberships of a value less than \$10,000 excluding GST that are required by legislation or that primarily support the City's administrative operations or staff professional development;
 - b. informing Councillors about other proposed memberships and renewals prior to the City taking up or renewing those memberships; and

- c. with the prior consultation of Councillors, proceeding with the proposed memberships or renewals unless a request is received from three or more Councillors for the matter to be reported to Committee;

ORGANISATIONAL STRUCTURE AND PERSONNEL MATTERS

10. with the prior consultation of Council, the appointment of senior staff (that is, Director level positions);
11. with the prior consultation of the Lord Mayor, structural changes involving M3 managers;
12. with the prior consultation of Council entering into any significant enterprise agreement;

LEGAL PROCEEDINGS

13. with the prior consultation of the Lord Mayor where practical and possible, the giving of instructions to Council's legal representatives to commence legal proceedings in the NSW Supreme Court or Federal Courts in relation to urgent injunction proceedings;
14. the giving of instructions to Council's legal representatives to resolve an appeal in relation to planning or regulatory appeals which is contrary to a resolution of Council;

PROPERTY, LAND USE AND RELATED MATTERS

15. granting of approvals to occupy public land (as defined in the Local Government Act 1993), crown land or any other land managed by Council in respect of approvals where:
 - a. the rental or fee does not exceed \$500,000 per annum;
 - b. the term does not exceed 5 years; and
 - c. the term of any option does not exceed 5 years,

with such approvals being reported to Council in the Quarterly Report;

16. granting of approvals to occupy public land (as defined in the Local Government Act 1993), crown land or any other land managed by Council in respect of approvals:
 - a. involving the erection of a hoarding for a period of up to 5 years and which conform to Council's policy on hoardings; or
 - b. relating to a temporary occupation of public land or crown land (including parks and open spaces) not exceeding 40 days; or
 - c. for the occupation of footways for outdoor dining for a period of up to 7 years including options;

with such approvals being reported to Council in the Quarterly Report;

17. granting of owner's consent to the lodgement of an application to carry out development on significant property or land (including roads) owned or managed by Council provided that the development involves:

- a. alterations or additions to the fit-out or internal fabric or appearance of the building;
- b. minor changes to the external fabric or appearance of the building;
- c. a use of public or crown land (such as tables and chairs on a footway);
- d. works by Council in accordance with an approved budget;

and provided that such consent:

- e. is granted for a period of up to 7 years; and
- f. does not fetter Council's discretion as consent authority;

GRANTS PROGRAMS

18. implementing the Quick Response Grant, Creative Spaces Grant, Short Term Empty Properties Grant, Venue Hire Support Grants and Sponsorship and Street Banner Sponsorship programs in accordance with the Grants and Sponsorship Policy criteria and monetary limits;

TEMPORARY COVID-19 DELEGATIONS

Al Fresco City Program

- 18A. (intentionally left blank);
- 18B. (intentionally left blank);
- 18C. (intentionally left blank);
- 18D. amending the Outdoor Dining Guidelines to remove Appendix 1 'Road area reallocated to outdoor dining' at such time as applications for on-street outdoor dining are no longer accepted;

COUNCIL RESERVED FUNCTIONS (NOT TO BE EXERCISED BY THE CEO)

POLICY AND PROCEDURE

19. the power to make or amend Council policy;
20. witnessing the affixing of the Common Seal of the Council;
21. the release for public exhibition and comment of any plan or policy, which is required by legislation to be exhibited;

BUDGET AND RESOURCE ALLOCATION

22. approving expenditure so as to unfavourably impact on the net operating result approved by Council in the adopted Operational Plan;
23. the approval of concept designs for all major capital works;

24. determination of applications for donations to charities, cultural and other organisations which is contrary to a resolution of Council or policy approved by Council;
25. authorising any expenditure greater than \$250,000 excluding GST per project from the capital contingency funds;
26. writing off bad debts, for amounts greater than \$100,000 (excluding GST);

ORGANISATIONAL STRUCTURE AND PERSONNEL MATTERS

27. the approval of the organisation structure at Director (M2) level;
28. the appointment of senior staff (that is, Director level positions) other than as delegated to the Chief Executive Officer under clause 10;
29. structural changes involving M3 managers other than as delegated to the Chief Executive Officer under clause 11;
30. entering into any significant enterprise agreement other than as delegated to the Chief Executive Officer under clause 12;

COUNCIL OPERATIONS AND SERVICES

31. carrying out new non-core services not already approved by Council;
32. significant variation of any existing Council service that would have ongoing implications for Council in terms of cost or service delivery;
33. altering the Schedule of Fees and Charges which are not within the relevant categories as determined within the Revenue Policy of Council's Operational Plan;

LEGAL PROCEEDINGS

34. the giving of instructions to Council's legal representatives to commence legal proceedings in the NSW Supreme Court or Federal Courts other than as delegated to the Chief Executive Officer under clause 13;
35. the giving of instructions in legal proceedings contrary to a resolution of Council other than as delegated to the Chief Executive Officer under clause 14;

PROPERTY, LAND USE AND RELATED MATTERS

36. granting of approvals to occupy and use public land (as defined in the Local Government Act 1993), crown land or any other land managed by Council other than as delegated to the Chief Executive Officer under clause 15 and 16;
37. adoption of a plan of management for community land;
38. granting of owner's consent to the lodgement of an application to carry out development on significant property or land (including roads) owned or managed by Council other than as delegated to the Chief Executive Offer under clause 17;

CULTURAL

39. the development or formation of relationships with other cities, including sister city agreements;
40. the approval of civic and ceremonial events;
41. the granting of civic honours;

PLANNING AND DEVELOPMENT

42. determination of applications for development consent under the Environmental Planning and Assessment Act 1979 involving the erection of a building of more than three storeys;
43. determination of applications for development consent under the Environmental Planning and Assessment Act 1979 where a request is made by Councillors for the development application to be the subject of a report to Council, through the Planning and Development Committee, provided that:
 - i. the request is in writing (email acceptable) to the Chief Executive Officer, from three or more Councillors; and
 - ii. prior to lodging the request, the relevant Councillors have firstly consulted with the Chief Executive Officer or Director City Planning, Development and Transport regarding any public objections received, and have considered whether or not such objections are well founded, may be satisfied by the imposition of conditions or by the amendment of the application, as advised by the Chief Executive Officer or Director;
44. determination of applications for approval to demolish a heritage item but this does not prevent determination of application for works modifying a heritage item in accordance with a development consent;
45. the award of Heritage Floor Space where the applicant is the Council or a government agency;
46. determination of applications for approval to demolish an entire residential building where such buildings will not be replaced in accordance with a development consent;
47. determination of applications for consent or approval which involve a variation under s82 of the Local Government Act 1993 of a prescribed standard or a Council policy;
48. determination of applications for approval to construct a bridge or tunnel.

Attachment F

Delegations to the Lord Mayor



Resolution of Council []

Delegations to the Lord Mayor

We acknowledge the Gadigal of the Eora Nation
as the Traditional Custodians of our local area.

Interpretation of delegations

- A. This instrument of delegation should be construed as operating in a manner which is valid and within the powers conferred on the Council under the Local Government Act 1993.
- B. References to the Chief Executive Officer are references to the general manager appointed under the Local Government Act 1993. References to the Lord Mayor are references to the mayor elected under the Local Government Act 1993.
- C. References to the decisions of Council are references to decisions made by Council from time to time.
- D. References to policies of the Council are references to policies adopted by Council from time to time.
- E. These delegations are not intended to limit the Lord Mayor's ability to carry out such other functions and exercise such other powers as the Council may determine from time to time or as may be functions of the Lord Mayor under the Local Government Act 1993 or the City of Sydney Act 1988.

Role of Lord Mayor

The role of the Lord Mayor under section 226 of the Local Government Act 1993 is:

- (a) to be the leader of the council and a leader in the local community,
- (b) to advance community cohesion and promote civic awareness,
- (c) to be the principal member and spokesperson of the governing body, including representing the views of the council as to its local priorities,
- (d) to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council,
- (e) to preside at meetings of the council,
- (f) to ensure that meetings of the council are conducted efficiently, effectively and in accordance with this Act,
- (g) to ensure the timely development and adoption of the strategic plans, programs and policies of the council,
- (h) to promote the effective and consistent implementation of the strategic plans, programs and policies of the council,
- (i) to promote partnerships between the council and key stakeholders,
- (j) to advise, consult with and provide strategic direction to the general manager in relation to the implementation of the strategic plans and policies of the council,
- (k) in conjunction with the general manager, to ensure adequate opportunities and mechanisms for engagement between the council and the local community,
- (l) to carry out the civic and ceremonial functions of the mayoral office,
- (m) to represent the council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level,
- (n) in consultation with the councillors, to lead performance appraisals of the general manager,
- (o) to exercise any other functions of the council that the council determines.

Delegation of other functions

Council delegates to the Lord Mayor, on an ongoing basis, the following other powers, authorities, duties and functions which are to be exercised in a manner consistent with Council's policies and decisions as applicable from time to time, pursuant to sections 226 (o) and 377 of the Local Government Act 1993.

General and Policy Direction

1. To direct the Chief Executive Officer.

Management of Council meetings and business

2. To call and schedule meetings of Council Committees, briefings of Councillors and inspections by Councillors.
3. To request the Chief Executive Officer include items on the agendas for all meetings of Council and Council Committees, provided that if the Council has by resolution determined that a specific item should be placed on its agenda, the function exercised under this delegation must be exercised in accordance with that resolution.

Expenditure

4. With the prior consultation of the Chief Executive Officer, approve all expenditure from contingency funds, other than the Chief Executive Officer's contingency fund, provided it is within the terms of the budget adopted by Council.
5. To approve:
 - a. all reasonable international travel by staff for Council related business; and
 - b. all reasonable associated expenses with any such travel,noting that any such approved expenses are to be reported in the annual report and the quarterly performance reports to Council.

External Relations and Representations

6. To approve all media statements and publications issued on behalf of Council, unless Council determines otherwise on a specific issue.
7. To determine who should represent Council on external organisations and committees and inter-agency working parties, provided that where a staff member is proposed to represent Council, the Lord Mayor must first consult with the Chief Executive Officer.
8. To determine who should represent Council at civic, ceremonial and social functions where:
 - a. the Lord Mayor is unable to attend; and
 - b. Council has not determined its representative;

provided that where a staff member is proposed to represent Council, the Lord Mayor must first consult with the Chief Executive Officer.

9. To grant civic awards and honours such as keys to the City.

10. To approve civic and ceremonial events.

11. To determine other matters of protocol where required from time to time.

Appointment and Performance Management of Chief Executive Officer

12. To negotiate and settle terms of a contract of employment with the Chief Executive Officer (CEO Contract) including determining the appropriate remunerations and inform Councillors accordingly.

13. To vary the terms and conditions of the CEO Contract (in consultation with Councillors in respect of material variations).

14. To administer the CEO Contract in accordance with the requirements of the Act, including, but not limited to, approving annual leave and exercising suspension and termination clauses.

15. To appoint an Executive Director (M2) to act as Chief Executive Officer due to the absence of the Chief Executive Officer for any reason, other than the taking of annual leave, with such appointment to be considered by Council at the earliest opportunity.

Organisational Accountability

16. To obtain direct and independent advice relevant to Council functions, with all such cases to be reported to Council.

Authority to Obtain Legal Services

17. To instruct Council's legal representatives in matters commenced as a result of a decision of Council or the Lord Mayor. Such instructions may be given directly or through the Chief Executive Officer or General Counsel. Instructions must be consistent with relevant Council policies or decisions unless the Lord Mayor has been advised by the General Counsel or the Chief Executive Officer or external counsel that it is not in the Council's interest to do so.

18. To instruct Council's legal representatives to commence legal proceedings, including an appeal;

- a. in consultation with the Chief Executive Officer and the General Counsel; or
- b. in consultation with at least two Councillors if the legal proceedings involve the Chief Executive Officer or the General Counsel.

Any such instructions given are to be reported in the next CEO Update issued to Councillors

Mayoral and Civic Role

19. In consultation with the Chief Executive Officer, and in accordance with relevant policies and procedures, in respect of the Office of the Lord Mayor:

- a. determine the structure of the Unit;
- b. allocate expenditure within the Unit, not exceeding the global budget of the Unit approved annually by Council;
- c. determine the number and description of all staff positions;
- d. be fully and formally consulted in respect of the appointment and dismissal of all staff;
- e. direct staff within the Unit and allocate tasks.

General Authority of Council During Recesses

20. To exercise those powers, authorities, duties and functions of Council capable of being exercised without a formal resolution under the Local Government Act 1993 but not delegated to the CEO during the period:

- a. commencing at midnight on the day of the Council meeting held immediately before a recess period as approved by Council; and
- b. ending at the time of commencement of the first Committee meeting held immediately after the end of a recess period as approved by Council, provided:
- c. reports or other business papers in a form similar to those normally submitted to Council or a Council Committee are provided to the Lord Mayor and Councillors at least three business days prior to the Lord Mayor exercising any powers, authorities, duties and functions of Council under this delegation; and
- d. the Lord Mayor does not receive written objections by three or more Councillors on an item stating relevant reasons as to why the Lord Mayor should not exercise any powers, authorities, duties and functions of Council in relation to that item, under this delegation; and
- e. any powers, authorities, duties and functions of Council exercised by the Lord Mayor pursuant to this delegation are to be reported to Councillors on a weekly basis in the CEO's Update.

Attachment G

Delegations to the Chief Executive Officer



Resolution of Council []

Delegations to the Chief Executive Officer

We acknowledge the Gadigal of the Eora Nation
as the Traditional Custodians of our local area.

Interpretation of delegations

- A. This instrument of delegation should be construed as operating in a manner which is valid and within the powers conferred on the Council under the Local Government Act 1993.
- B. References to the Chief Executive Officer are references to the general manager appointed under the Local Government Act 1993.
- C. References to the decisions of Council are references to decisions made by Council from time to time.
- D. References to policies of the Council are references to policies adopted by Council from time to time.
- E. These delegations are not intended to limit the Chief Executive Officer's ability to carry out such other functions and exercise such other powers as the Council may determine from time to time or as may be functions of the Chief Executive Officer under the Local Government Act 1993.

Role of the Chief Executive Officer

The Chief Executive Officer has the following functions under section 335 of the Local Government Act 1993:

- (a) to conduct the day-to-day management of the council in accordance with the strategic plans, programs, strategies and policies of the council,
- (b) to implement, without undue delay, lawful decisions of the council,
- (c) to advise the lord mayor and the governing body on the development and implementation of the strategic plans, programs, strategies and policies of the council,
- (d) to advise the Lord Mayor and the governing body on the appropriate form of community consultation on the strategic plans, programs, strategies and policies of the council and other matters related to the council,
- (e) to prepare, in consultation with the Lord Mayor and the governing body, the council's community strategic plan, community engagement strategy, resourcing strategy, delivery program, operational plan and annual report,
- (f) to ensure that the Lord Mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their functions,
- (g) to exercise any of the functions of the council that are delegated by the council to the Chief Executive Officer,
- (h) to appoint staff in accordance with the organisation structure determined under this Chapter and the resources approved by the council,
- (i) to direct and dismiss staff,
- (j) to implement the council's workforce management strategy,
- (k) any other functions that are conferred or imposed on the Chief Executive Officer by or under this or any other Act.

Delegation of functions to the Chief Executive Officer

Council delegates to the person holding the position of Chief Executive Officer on an ongoing basis its functions under the Local Government Act 1993 and any other legislation conferring functions on the Council, except for the powers, authorities, duties and functions which are:

- reserved to Council by Section 377 of the Local Government Act 1993
- required by any legislation or instrument to be performed by resolution of Council
- delegated exclusively to the Lord Mayor by Council resolution from time to time
- set out in the *Limitations to the CEO Delegations* outlined below.

These delegations are to be exercised in a manner consistent with Council's policies and decisions as applicable from time to time.

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Limitations to the CEO Delegations

Budget and Resource Allocation

1. Acceptance of tenders

The CEO cannot approve the acceptance of tenders involving an estimated expenditure or receipt of an amount of more than \$5 million including GST.

2. Variations to contracts originally under \$5 million

The CEO cannot approve variations of any contract sum or contract contingency following a tender process such that the total value of the contract exceeds \$5 million including GST for the initial term and any extensions of the contract.

3. Variations to contracts – contracts approved by Council

The CEO cannot approve variations of any contract sum or contract contingency exceeding the total expenditure previously approved by Council for any variations that are cumulatively more than 10% of the total expenditure (including GST) previously approved by Council.

4. Contingency

The CEO cannot authorise any expenditure from operational contingency funds (other than CEO's contingency fund) within the annual budget without the prior consultation of the Lord Mayor (consultation not required for the Chief Executive Officer's contingency fund).

5. Operational plan

The CEO cannot authorise expenditure that unfavourably impacts on the net operating result approved by Council in the adopted Operational Plan.

6. Concept designs for capital works

The CEO cannot approve concept designs for capital works projects with an estimated project cost of more than \$5 million excluding GST.

7. Capital contingency funds

The CEO cannot authorise any expenditure greater than \$500,000 excluding GST per project from the capital contingency funds.

8. Writing off bad debts

The CEO cannot write off individual bad debts for amounts greater than \$100,000 excluding GST.

Legal Proceedings

9. Commencement of legal proceedings

The CEO cannot give instructions to Council's legal representatives to commence legal proceedings in the NSW Supreme or Federal Courts without prior consultation with the Lord Mayor.

Property, Land Use and Related Matters

10. Approvals to occupy land

The CEO cannot grant approvals to occupy and use public land (as defined in the Local Government Act 1993), crown land or any other land managed by Council where:

- a. the annual rental or fee exceeds is \$1,000,000 excluding GST; or
- b. the term (including options) exceeds 15 years

11. Approvals to occupy land – Hoardings and temporary occupation

The CEO cannot grant approvals to occupy public land (as defined in the Local Government Act 1993), crown land or any other land managed by Council which:

- a. involve the erection of a hoarding for a period 5 years or more; or
- b. relate to a temporary occupation of public land or crown land (including parks and open spaces) exceeding 40 days.

12. Plans of management for community land

The CEO cannot adopt a plan of management for community land.

Grants Programs

13. Grant implementation

The CEO cannot determine grants, with the exception of determinations for the purpose of implementing the Quick Response Grant, Creative Spaces Grant, Short Term Empty Properties Grant, Venue Hire Support Grants and Sponsorship and Street Banner Sponsorship programs in accordance with the Grants and Sponsorship Policy criteria and monetary limits as amended by Council from time to time.

Policy and procedure

14. Make or amend Council policy

The CEO cannot make or amend Council policy.

15. Public exhibition and comment

The CEO cannot release for public exhibition and comment any plan or policy which is required by legislation to be exhibited.

Council Operations and Services

16. New services

The CEO cannot carry out new services not already approved by Council

17. Variation of existing Council services

The CEO cannot authorise any significant variation of any existing Council service that would have ongoing implications for Council in terms of cost or service delivery.

Cultural

18. Relationships with other cities

The CEO cannot develop or form relationships with other cities, including sister city agreements.

19. Civic and ceremonial events

The CEO cannot approve civic and ceremonial events.

20. Civic honours

The CEO cannot grant civic honours.

Planning and Development

21. Heritage floor space

The CEO cannot award Heritage Floor Space where the applicant is the Council or a government agency.

Item 15**Public Exhibition - Code of Meeting Practice and Councillors' Expenses and Facilities Policy****File No: S051923****Summary****Code of Meeting Practice**

The City's current Code of Meeting Practice has been in place since August 2022. In accordance with the Local Government Act 1993 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 (Model Meeting Code) prescribed by the Local Government (General) Regulation 2021 within 12 months of the election.

There are mandatory and non-mandatory provisions contained within the Model Code. Nonmandatory provisions may be varied dependent on local circumstances and according to a council's requirements.

The adopted meeting code may incorporate non-mandatory provisions and any other supplementary provisions adopted by council. A council's adopted meeting code must not contain provisions that are inconsistent with the mandatory provisions.

The City of Sydney's existing Code of Meeting Practice will remain in force until Council adopts an updated Code of Meeting Practice. Council is required to exhibit a draft of the Code of Meeting Practice for at least 28 days and provide at least 42 days for submissions.

The proposed City of Sydney Code of Meeting Practice incorporates the mandatory provisions of the Model Meeting Code, along with some of the non-mandatory provisions of the Model Meeting Code and supplementary provisions relevant to the City of Sydney.

This report seeks Council approval for the public exhibition of the draft Code of Meeting Practice.

Councillors' Expenses and Facilities Policy

In accordance with the Local Government Act 1993, Councillors are entitled to be provided with the necessary resources and facilities and for expenses to be reimbursed in order for them to perform the role and undertake the duties of a Councillor.

To facilitate this, Council is required to adopt a policy, known as the Councillors' Expenses and Facilities Policy (Policy), for the payment of expenses incurred by, and the provision of facilities to, the Lord Mayor and Councillors.

In accordance with the Act, the Policy must be reviewed and adopted within the first 12 months of the commencement of each term of a council.

The adopted Policy must be consistent with the relevant provisions of the Act (sections 252 and 253) and the Local Government (General) Regulation 2021. These provisions are further informed by the “Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW” (the Guidelines) issued by the Office of Local Government (OLG) in 2009.

Council last adopted this Policy in November 2022 and a review of the existing Policy has been undertaken. The draft Policy does not propose the introduction of any new expense categories or facilities. It does propose an increase to the scope of some expenditure categories to better meet the needs of Councillors and an increase in the annual caps related to a number of categories.

Council is required to exhibit a draft of the Councillors' Expenses and Facilities Policy for at least 28 days and provide at least 42 days for submissions. The City of Sydney's existing Councillors' Expenses Policy will remain in force until Council adopts an updated Councillors' Expenses and Facilities Policy.

This report seeks Council approval for the public exhibition of the draft Councillors' Expenses and Facilities Policy.

Recommendation

It is resolved that:

- (A) Council approve the draft Code of Meeting Practice as shown at Attachment A to the subject report, for public exhibition for a period of 28 days and specifying a period of not less than 42 days during which submissions may be made;
- (B) Council note that the Code of Meeting Practice including any recommended changes, will be reported to Council for adoption following the exhibition period;
- (C) Council approve the draft Councillors' Expenses and Facilities Policy as shown at Attachment A to the subject report, for public exhibition for a period of 28 days and specifying a period of not less than 42 days during which submissions may be made;
- (D) Council note that the Councillors' Expenses and Facilities Policy including any recommended changes, will be reported to Council for adoption following the exhibition period; and
- (E) authority be delegated to the Chief Executive Officer to undertake minor editorial amendments for clarity or correction of drafting errors prior to the exhibition of the draft Code of Meeting Practice and draft Councillors' Expenses and Facilities Policy.

Attachments

Attachment A. Draft Code of Meeting Practice (with changes tracked)

Attachment B. Draft Councillors' Expenses and Facilities Policy (with changes tracked)

Background

Code of Meeting Practice

1. 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 (Model Meeting Code) prescribed by the Local Government (General) Regulation 2021 within 12 months of the election. (The local government election was held on 14 September 2024).
2. A council's adopted meeting code must not contain provisions that are inconsistent with the mandatory provisions. A council's adopted meeting code may also incorporate the non-mandatory provisions of the Model Code and any other supplementary provisions adopted by the council.
3. Councils and committees of councils of which all the members are councillors must conduct their meetings in accordance with the Code of Meeting Practice adopted by the council.
4. The City's Code of Meeting Practice was last reviewed and revised in August 2022.

Objectives

5. The Code of Meeting Practice has the following objectives, to ensure:
 - (a) all meetings of Council and its Committees are conducted in an orderly, consistent and efficient manner;
 - (b) all meetings of Council and its Committees are conducted according to the principles of procedural fairness and due process;
 - (c) all Councillors have an equal opportunity to participate in the meeting to the fullest extent possible, with respect being accorded to the expression of differing views;
 - (d) all Councillors fully understand their rights and obligations as participants in meetings of Council; and
 - (e) proceedings are transparent and understandable to all persons participating in and observing meetings of Council and its Committees.

Meeting Principles

6. Council and committee meetings should be:
 - (a) transparent: decisions are made in a way that is open and accountable;
 - (b) informed: decisions are made based on relevant, quality information;
 - (c) inclusive: decisions respect the diverse needs and interests of the local community;
 - (d) principled: decisions are informed by the principles prescribed under Chapter 3 of the Local Government Act 1993;

- (e) trusted: the community has confidence that Councillors and staff act ethically and make decisions in the interests of the whole community;
 - (f) respectful: Councillors, staff and meeting attendees treat each other with respect;
 - (g) effective: meetings are well organised, effectively run and skilfully chaired; and
 - (h) orderly: Councillors, staff and meeting attendees behave in a way that contributes to the orderly conduct of the meeting.
7. The revised draft Code (as shown at Attachment A) incorporates the mandatory provisions of the Model Meeting Code, along with non-mandatory provisions of the Model Meeting Code and supplementary provisions relevant to the City of Sydney, includes the following amendments to the current Code:

Part/Clause(s)	Comment
Part 3 – Pre-meeting briefing sessions (clauses 3.59-3.64)	<p>Non-mandatory provision of the Model Code recommended for deletion in response to the release of the Office of Local Government discussion paper – Councillor conduct and meeting practices.</p> <p>It is anticipated that relevant Council briefings will now be held as part of Council Committees, which will be scheduled to commence earlier to accommodate this update.</p>

- 8. Further minor updates and amendments have also been made for clarity and consistency (and are largely administrative and procedural).
- 9. Following consideration by Council, the draft Code will be placed on public exhibition.
- 10. Any submissions received will be summarised and reported to Council for consideration together with the final Code recommended for adoption.

Councillors' Expenses and Facilities Policy

- 11. Council is required to adopt a Policy for the payment of expenses incurred by, and the provision of facilities to, the Lord Mayor, Deputy Lord Mayor and Councillors within the first 12 months of each council term.
- 12. Council is required to review its Policy and publicly exhibit the proposed Policy, even if the Policy remains the same as the existing Policy.

13. The current version of the Policy has been in place since November 2022. Following a review of the Policy in accordance with the provisions of the Local Government Act 1993 (the Act), the Local Government (General) Regulation 2021 and the Office of Local Government (OLG) Guidelines, some modifications and variations are recommended.
14. The draft Policy does not propose the introduction of any new expense categories or facilities. It does propose an increase to the scope of some expense categories and facilities to better meet the needs of Councillors and an increase in the annual caps related to a number of categories.
15. The revised draft Policy (as shown at Attachment A) includes the following amendments to the current Policy:

Section/Clause	Provision	Proposed Change
Chapter 3 – Payment of Expenses – Conferences Interstate (\$3,000 cap)	Provision for attendance at interstate conferences and seminars relevant to the functions of Council.	Administrative change – section renamed and updated to include civic events. Updated entitlement – cap increased from \$3,000 per year to \$5,000 per year.
Chapter 3 – Payment of Expenses – Conferences Intrastate (\$2,000 cap)	Provision for attendance at intrastate conferences and seminars relevant to the functions of Council.	Administrative change – section renamed and updated to include civic events. Updated entitlement – cap increased from \$2,000 per year to \$3,000 per year.
Chapter 3 – Payment of Expenses – Council Representation at Non-Council Functions and Other Events (\$2,000 cap)	Provision for attendance at non-council functions, community and corporate or industry events where Councillor representation would be expected.	Updated entitlement – cap increased from \$2,000 per year to \$4,000 per year.
Chapter 3 – Payment of Expenses – Spouse / Partner / Accompanying Person (\$600 cap)	Provision for the cost of a spouse, partner or accompanying person attending official Council functions of a formal and ceremonial nature is appropriate when accompanying a Councillor:	Updated entitlement – cap increased from \$600 per year to \$1,000 per year.

Section/Clause	Provision	Proposed Change
Chapter 3 – Payment of Expenses – Training, Educational and Professional Body Membership Expenses (\$50,000 total for all Councillors)	Provision for the training, education and ongoing professional development of Councillors to ensure that members of Council’s governing body are provided with the knowledge and skills required to undertake their roles and responsibilities effectively.	Updated entitlement – additional provision for all Councillors to undertake a company directors course (and ongoing membership costs) – with costs not included in the annual cap for Training, Educational and Professional Body Membership Expenses.
Chapter 4 – Provision of Facilities - Administrative and Other Support Services	Provision of administrative and other support services for Councillors	Updated entitlement – inclusion of an additional 0.5 FTE administration officer for all Councillors.
Chapter 4 – Provision of Facilities - Council Related Meeting Costs (\$6,000 cap)	Provision for food, beverages and further meeting requirements (catering, audio visual equipment or personnel) for Council Related Meetings	Updated entitlement – cap increased from \$6,000 per year to \$10,000 per year.

16. Further minor updates and amendments have also been made for clarity and consistency (and are largely administrative and procedural).
17. Following consideration by Council, the draft Policy will be placed on public exhibition.
18. Any submissions received will be summarised and reported to Council for consideration together with the final Policy recommended for adoption.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

19. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This report is aligned with the following strategic directions and objectives:
- (a) Direction 1 - Responsible governance and stewardship - The Code of Meeting Practice has been designed to promote, as the principle object of meetings, the making of decisions by Council that are in the best interests of the Council and the community as a whole and to ensure all Council meetings are:
 - (i) consistent, orderly and efficient;
 - (ii) fair and respectful for all Councillors and other meeting participants; and
 - (iii) conducted with transparency and clearly defined rights and obligations for Councillors.
 - (b) Direction 1 - Responsible Governance and Stewardship – The Councillors' Expenses and Facilities Policy has been designed to ensure Councillors have the appropriate tools and resources to meet the civic duties of their office and to ensure there is a transparent and well governed approach towards Councillor expenditure.

Financial Implications

20. Management of the webcasting and recordings of Council and committee meetings requires appropriate software licences. There are sufficient funds allocated within the current year's operating budget and future years' forward estimates for these services.
21. The 2024/25 operating budget (and future years' forward estimates) includes funding for the ongoing provision of services and facilities to Councillors. The draft Policy proposes updates which will require additional funding. Any required budget adjustments will be reported to Council with the final Policy recommended for adoption.

Relevant Legislation

22. Local Government Act 1993.
23. Local Government (General) Regulation 2021.

Critical Dates / Time Frames

24. In accordance with section 360 the Local Government Act 1993 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 (Model Meeting Code) prescribed by the Regulation within 12 months of the election.
25. Council is required to review its Councillors' Expenses and Facilities Policy within the first 12 months of the current term of Council.

Public Consultation

26. Subject to Council approval, the draft Code and draft Policy will be exhibited for a period of 28 days, with public submissions sought over a concurrent 42 days as required under the Local Government Act 1993.

MONICA BARONE PSM

Chief Executive Officer

Erin Cashman, Manager OCEO

Attachment A

Draft Code of Meeting Practice

Draft Code of Meeting Practice



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1. Introduction

This Model Code of Meeting Practice for Local Councils in NSW (the Model Meeting Code) is prescribed under section 360 of the Local Government Act 1993 (the Act) and the Local Government (General) Regulation 2021 (the Regulation).

The Model Meeting Code applies to all meetings of councils and committees of councils of which all the members are councillors (committees of council). Council committees whose members include persons other than councillors may adopt their own rules for meetings unless the council determines otherwise.

Councils must adopt a code of meeting practice that incorporates the mandatory provisions of the Model Meeting Code.

A council's adopted code of meeting practice may also incorporate the non-mandatory provisions of the Model Meeting Code and other supplementary provisions. However, a code of meeting practice adopted by a council must not contain provisions that are inconsistent with the mandatory provisions of this Model Meeting Code.

A council and a committee of the council of which all the members are councillors must conduct its meetings in accordance with the code of meeting practice adopted by the council.

Objectives

This Code of Meeting Practice has the following objectives:

1. to ensure that all meetings of Council and its Committees are conducted in an orderly, consistent and efficient manner;
2. to ensure that all meetings of Council and its Committees are conducted according to the principles of procedural fairness and due process;
3. to ensure that all Councillors have an equal opportunity to participate in the meeting to the fullest extent possible, with respect being accorded to the expression of differing views;
4. to ensure that all Councillors fully understand their rights and obligations as participants in meetings of Council; and
5. to ensure that proceedings are transparent and understandable to all persons participating in and observing meetings of Council and its Committees.

Note: The objectives are a supplementary provision

Interpretation

This Code may be cited as the City of Sydney Code of Meeting Practice.

The Code shall be interpreted in a manner which is consistent with the *Local Government Act 1993*, the *Local Government General Regulation 2021* and the Objectives of this Code.

The Code includes relevant references to sections of the *Local Government Act 1993* and *Local Government General Regulation 2021*, as well as supplementary provisions adopted by Council.

Any references to the mayor in this Code should be interpreted to apply to the Lord Mayor of the City of Sydney.

Any references to the general manager should be interpreted to apply to the Chief Executive Officer of the City of Sydney.

Note: The interpretation is a supplementary provision

2. Meeting principles

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.

Revision of the Code

2.2 Where permitted under the Act or Regulation, the Council authorises the Chief Executive Officer to reissue the Code without public exhibition to incorporate any amendments to relevant Acts, Regulations or formal advice from the NSW Office of Local Government.

Note: Clause 2.2 is a Supplementary Provision

3. Before the meeting

Timing of ordinary council meetings

3.1 The council shall, by resolution, set the frequency, time, date and place of its ordinary meetings.

Note: Under section 365 of the Act, councils are required to meet at least ten (10) times each year, each time in a different month unless the Minister for Local Government has approved a reduction in the number of times that a council is required to meet each year under section 365A.

3.2 In addition to the meeting cycle adopted, Council may resolve to hold additional meetings as considered necessary.

3.3 Additional meetings of Council convened by resolution of Council are subject to the three days' notice rule and must also be advertised in accordance with clause 3.10 of this Code of Meeting Practice.

3.4 Generally, Council will recess during school holiday periods.

3.5 Council meetings will generally commence at 5.00pm, but this commencement time may vary for particular meetings if the Council so resolves or if the Lord Mayor so directs under delegated authority-

3.6 Council will determine the commencement times for meetings of Committees.

3.7 The Lord Mayor has delegated authority to call and schedule meetings of Council Committees, [briefings-workshops](#) for Councillors and site inspections by Councillors.

Note: Clauses 3.2-3.7 are supplementary provisions

Extraordinary meetings

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

Note: Clause 3.8 reflects section 366 of the Act.

3.9 Councillors requesting that the Lord Mayor call an extraordinary meeting of council in accordance with clause 3.8, must provide the reason for the request in writing.

Note: Clause 3.9 is a supplementary provision

Notice to the public of council meetings

3.10 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 3.10 reflects section 9(1) of the Act.

3.11 For the purposes of clause 3.10, 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.

3.12 For the purposes of clause 3.10, notice of more than one (1) meeting may be given in the same notice.

Notice to councillors of ordinary council meetings

3.13 The Chief Executive Officer 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 3.13 reflects section 367(1) of the Act.

3.14 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 3.14 reflects section 367(3) of the Act.

Notice to councillors of extraordinary meetings

3.15 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 3.15 reflects section 367(2) of the Act.

Days of notice

3.16 The day of issue and the day of the meeting are not to be counted as days of notice in accordance with section 36 Interpretations Act 1987.

Note: Clause 3.16 is a supplementary provision

Giving notice of business to be considered at council meetings

3.17 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 submitted in writing to the Chief Executive Officer or their specified delegate, no later than 12noon, four business days before the meeting is to be held.

3.18 A councillor may, in writing to the Chief Executive Officer, 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.

3.19 If the Chief Executive Officer 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 Chief Executive Officer 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.

3.20 A notice of motion which 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 notice of motion.

Note: Clauses 3.19 and 3.20 are non-mandatory provisions.

Questions with notice

3.21 A councillor may, by way of a notice submitted under clause 3.17 ask a question for response by the Chief Executive Officer about the performance or operations of the council.

3.22 A councillor is not permitted to ask a question with notice under clause 3.21 that comprises a complaint against the Chief Executive Officer or a member of staff of the council, or a question that implies wrongdoing by the Chief Executive Officer or a member of staff of the council.

3.23 The Chief Executive Officer or their nominee may respond to a question with notice submitted under clause 3.21 by way of a report included in the business papers for the relevant meeting of the council or orally at the meeting.

3.24 Notices of motion containing questions are to be dealt with as Questions on Notice and listed separately on the council agenda. Questions on Notice must be submitted in writing to the Chief Executive Officer or their specified delegate, no later than 12 noon, four business days before the meeting is to be held.

3.25 Questions on Notice must directly relate to the business of council and must be put directly, succinctly, respectfully and without argument.

3.26 Questions should not contain:

- (a) statements of facts or names of persons unless they are strictly necessary to render the question intelligible and can be authenticated;
- (b) argument;
- (c) inference; or
- (d) imputation.

3.27 Questions should not ask for legal opinion to be provided at the council meeting.

3.28 Questions should not refer to confidential matters that have been previously, or are yet to be, discussed by council in closed session, nor refer to confidential matters as listed in section 10A(2) of the Local Government Act 1993.

3.29 The Chief Executive Officer or specified delegate may exclude from the agenda any Question on Notice which may have the effect of exposing a councillor, the council, or a member of staff, to an action for defamation.

3.30 A councillor may appeal to the Lord Mayor against a decision of the Chief Executive Officer or specified delegate made under clause 3.29. The Lord Mayor will decide in those circumstances if the Question on Notice complies with the Code of Meeting Practice.

3.31 The Lord Mayor may rule that a Question on Notice does not comply with the Code of Meeting Practice, notwithstanding a decision made under clause 3.29 - and in such cases the Lord Mayor is to provide a written reason for such a decision.

3.32 The council business papers may include Supplementary Answers to Previous Questions, following Questions on Notice.

Note: Clauses 3.24 -3.30 are supplementary provisions

Notices of motion

3.33 The rules applying to the content of Questions also apply to the content of Notices of Motion.

3.34 Councillors are to ensure, where it is intended that the Chief Executive Officer be asked to carry out some specific defined action that a Notice of Motion is written in such a way that, if carried, the motion carries such clear and unambiguous direction.

Note: Clauses 3.33 and 3.34 are supplementary provisions

Other motions

3.35 The rules applying to the content of Questions on Notice and Notices of Motion apply to the content of any other motion or amendment moved at a council or committee meeting.

3.36 Councillors are asked, where they propose to move an amendment to a staff recommendation, a committee recommendation, a Notice of Motion or any recommendation printed in the business paper, to provide copies of the proposed amendment to the Chief Executive Officer or their specified delegate at, or prior to the start of the meeting, for circulation to all councillors and relevant staff.

Note: Clauses 3.35 and 3.36 are Supplementary Provisions

Agenda and business papers for ordinary meetings

3.37 The Chief Executive Officer 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.

3.38 The Chief Executive Officer 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) if the Lord Mayor is the chairperson – 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 3.17.

3.38 Nothing in clause 3.38 limits the powers of the Lord Mayor to put a mayoral minute to a meeting under clause 8.6.

3.39 The Chief Executive Officer 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 Chief Executive Officer, the business is, or the implementation of the business would be, unlawful. The Chief Executive Officer must report, without giving details of the item of business, any such exclusion to the next meeting of the council.

3.40 Where the agenda includes the receipt of information or discussion of other matters that, in the opinion of the Chief Executive Officer, is likely to take place when the meeting is closed to the public, the Chief Executive Officer 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 3.40 reflects section 9(2A)(a) of the Act.

3.41 The Chief Executive Officer must ensure that the details of any item of business which, in the opinion of the Chief Executive Officer, 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.

Agendas

3.42 The Lord Mayor has the authority to direct the Chief Executive Officer to include items on the agendas for all meetings, subject to the Act and Regulation. Provided that the council has by resolution determined a specific item should be placed on its agenda, the function exercised under this delegation must be exercised in accordance with that resolution.

Note: Clause 3.42 is a supplementary provision

Matters for tabling – correspondence and petitions

3.43 The business paper may also include any correspondence which, in the opinion of the Chief Executive Officer or Lord Mayor, should be brought to the attention of Council. The Lord Mayor and Councillors may table original petitions, or copies of electronic petitions, at meetings of Council with or without notice. The recommendation accompanying any Matters for Tabling, whether notice has been given or not, is “It is resolved that the matter be received and noted.”

3.44 Notice of Petitions (whether paper petitions or electronic petitions) may be included on Council’s business paper provided that notice is given to the Chief Executive Officer or their specified delegate no later than 12noon, four business days before the meeting at which the petition is to be considered. Notice must include the name of the petition and the statement(s) to which the signatories are agreeing.

3.45 Councillors may debate the subject of the petition if notice has been given.

3.46 Should a Councillor wish Council to consider a motion in relation to a petition, they are able to provide notice of the motion in accordance with the requirements of the Code of Meeting Practice. The motion will then be listed on the Council agenda.

3.47 If notice of the petition has not been given, Council may only receive and note the petition and must not discuss the matter unless a motion is passed in accordance with clause 8.3. A Councillor may request that the petition be placed on the agenda for the next Council meeting to allow for debate.

3.48 Otherwise, once a petition has been received and noted, the Chief Executive Officer must ensure the petition is appropriately considered by the City and in accordance with the Council’s Petition Guidelines.

Note: Clauses 3.43-3.48 are supplementary provisions

Statement of ethical obligations

3.49 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

3.50 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.

Note: Clause 3.50 reflects section 9(2) and (4) of the Act.

3.51 Clause 3.50 does not apply to the business papers for items of business that the Chief Executive Officer has identified under clause 3.40 as being likely to be considered when the meeting is closed to the public.

Note: Clause 3.51 reflects section 9(2A)(b) of the Act.

3.52 For the purposes of clause 3.50, 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 3.52 reflects section 9(3) of the Act.

3.53 A copy of an agenda, or of an associated business paper made available under clause 3.50, may in addition be given or made available in electronic form.

Note: Clause 3.53 reflects section 9(5) of the Act.

Agenda and business papers for extraordinary meetings

3.54 The Chief Executive Officer must ensure the agenda for an extraordinary meeting of the council deals only with the matters stated in the notice of the meeting.

3.55 Despite clause 3.55, 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.

3.56 A motion moved under clause 3.55(a) can be moved without notice but only after the business notified in the agenda for the extraordinary meeting has been dealt with.

3.57 Despite clauses 9.27-9.36 only the mover of a motion moved under clause 3.55(a) can speak to the motion before it is put.

3.58 A motion of dissent cannot be moved against a ruling of the chairperson under clause 3.55(b) on whether a matter is of great urgency.

Pre-meeting briefing sessions

~~3.59—Prior to each ordinary meeting of the council, the Chief Executive Officer 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.~~

~~3.60—Pre-meeting briefing sessions are to be held in the absence of the public.~~

~~3.61—External attendees may be invited to attend or present to a pre-meeting briefing session.~~

~~3.62—Pre-meeting briefing sessions may be held by audio-visual link.~~

~~3.63—The Chief Executive Officer or a member of staff nominated by the Chief Executive Officer is to preside at pre-meeting briefing sessions.~~

~~3.64—Councillors (including the Lord Mayor) 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.~~

Note: Clauses 3.59-3.64 are non-mandatory provisions

4. Coming together

Attendance by councillors at meetings

4.1 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.

4.2 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 the code.

4.3 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.

4.4 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.

4.5 The council must act reasonably when considering whether to grant a councillor's request for a leave of absence.

4.6 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 4.6 reflects section 234(1)(d) of the Act.

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

The quorum for a meeting

4.8 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 4.8 reflects section 368(1) of the Act.

4.9 Clause 4.8 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 4.9 reflects section 368(2) of the Act.

4.10 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.

4.11 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 Chief Executive Officer.

4.12 The Chief Executive Officer 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.

4.13 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 or a public health emergency, the Lord Mayor may, in consultation with the Chief Executive Officer 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.

4.14 Where a meeting is cancelled under clause 4.13, 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 3.8.

Note: Clauses 4.13 and 4.14 are non-mandatory provisions

Meetings held by audio-visual link

4.15 A meeting of the council or a committee of the council may be held by audio-visual link where the Lord Mayor determines that the meeting should be held by audio-visual link because of a natural disaster, concerns relating to public health or in any other situation to ensure the health, safety and welfare of councillors and council staff. The Lord Mayor may only make a determination under this clause where they are satisfied that attendance at the meeting may put the health, safety and welfare of councillors and staff at risk. The Lord Mayor must make a determination under this clause in consultation with the Chief Executive Officer.

4.16 Where the Lord Mayor determines under clause 4.15 that a meeting is to be held by audio-visual link, the Chief Executive Officer 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 Chief Executive Officer 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.

4.17 This code applies to a meeting held by audio-visual link under clause 4.15 in the same way it would if the meeting was held in person.

4.18 Should the Lord Mayor determine that a meeting of the committees of the council be held by audio-visual link, members of the public will be permitted to address the meeting by audio-visual link, including from the location made available for the public to observe the meeting if they have attended in person.

4.19 If, as a result of technical issues, any councillor loses connection to the meeting held by audio-visual link, the chair should adjourn the meeting for up to 15 minutes to enable the technical issue to be resolved. If the chair loses connection, the deputy chair of the meeting must call for the adjournment.

Note: Where a council holds a meeting by audio-visual link under clause 4.15, 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.

Note: Clauses 4.15-4.19 are non-mandatory provisions

Attendance by councillors at meetings by audio-visual link (hybrid meetings)

4.20 The Lord Mayor may, in response to a request made by a councillor, permit the councillor to attend one or more meetings of the council or committee by audio-visual link where they are satisfied on reasonable grounds that the councillor will be prevented from attending the meeting/s in person for reasons beyond their control.

4.21 Requests by councillors to attend meetings by audio-visual link must be made in writing to the Lord Mayor by 12 noon on the day of the relevant meeting/s wherever possible and must provide information about the meeting/s the councillor will be prevented from attending in person and the reason why the councillor will be prevented from attending the meeting/s in person. When circumstances arise after 12 noon that would prevent a councillor from attending in person all attempts will be made to facilitate attendance by audio-visual link if possible, subject to technical capacity to do so.

4.22 Where the Lord Mayor approves attendance by audio-visual link a written determination permitting a councillor to attend one or more meetings by audio-visual link should be issued which provides the following information:

- (a) the Lord Mayor's confirmation that they are satisfied that the request is made on valid grounds, in accordance with clause 4.20 and
- (b) details of the meetings the determination applies to.

4.23 Where the request of a councillor to attend a meeting by audio-visual link has been agreed, the Lord Mayor shall determine whether the meeting shall be a hybrid meeting or held by audio-visual link. This determination should be provided to all councillors as soon as practicable prior to the relevant meeting.

4.24 A determination in relation to an application to permit a councillor to attend a meeting by audio-visual link is at the discretion of the Lord Mayor. Where the Lord Mayor determines not to approve attendance by audio-visual link this determination should be made in writing and reasons for the refusal provided to the councillor.

4.25 The Lord Mayor is under no obligation to permit a councillor to attend a meeting by audio-visual link where the technical capacity does not exist to allow the councillor to attend a meeting by these means.

4.26 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.

4.27 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.

4.28 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.

Note: Clauses 4.20-4.28 are non-mandatory provisions

Entitlement of the public to attend council meetings

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

Note: Clause 4.29 reflects section 10(1) of the Act.

4.30 Clause 4.29 does not apply to parts of meetings that have been closed to the public under section 10A of the Act.

4.31 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 4.31 reflects section 10(2) of the Act.

Webcasting of meetings

4.32 Each meeting of the council or a committee of the council is to be recorded by means of an audio or audio-visual device.

4.33 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.

4.34 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.

4.35 The recording of a meeting is to be made publicly available on the council's website for at least 12 months after the meeting.

4.36 Clauses 4.34 and 4.35 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 4.32-4.36 reflect section 236 of the Regulation.

4.37 Recordings of meetings may be disposed of in accordance with the State Records Act 1998.

4.38 Members of the public attending a council or committee meeting may have their image, voice and personal information (including name and address) recorded, publicly broadcast and archived for up to 12 months.

4.39 By attending a council or committee meeting, whether as a proponent or objector addressing the Council or as an observer or other interested party, members of the public consent to this use of their image, voice and personal information.

4.40 Speakers addressing council or committee meetings do not have absolute privilege in respect of opinions expressed or comments made or material presented. The City accepts no responsibility for any defamatory comments in this regard.

4.41 Council and committee meetings are public meetings where individuals may make statements or take actions which may be contrary to law. For example, those that are defamatory, discriminatory, breach privacy or physically harm another individual. Statements and actions such as these made in a council or committee meeting by any individual are not protected by privilege and may be the subject of legal proceedings and potential liability.

4.42 Council does not accept any liability for statements made or actions taken by individuals during a council or committee meeting that may be contrary to law.

4.43 Councillors and council employees are bound by the Code of Conduct and Code of Meeting Practice and are expected to maintain the high standards of conduct and behaviour required by these Codes.

4.44 A disclaimer will be published on Council's website, displayed in the public gallery, printed in the meeting agendas and announced by the Chair at the commencement of each meeting, notifying the public that statements made and actions taken during a council or committee meeting are those of the individuals making them, and not those of the council.

4.45 Unless set out in a resolution of council, the City of Sydney does not endorse or support the views, opinions, standards, or information that may be expressed by individuals at a council or committee meeting, and which may be contained in a live stream or recording of a council or committee meeting.

4.46 Recordings of proceedings are not an official record of the meeting, nor do they convey the official minutes of a council or committee meeting or the position of Council. Recordings are not to be used except in accordance with this Code.

4.47 Written transcripts of proceedings are not available.

4.48 Council or committee meetings may be several hours long. Viewing live or recorded video of Council meetings over the internet can consume large amounts of data. The user is responsible for any charges a service provider may impose for data usage, particularly over a mobile internet connection.

4.49 Access to live streams and recordings of council or committee meetings is provided on the City's website for personal and non-commercial use.

4.50 Video, images and audio contained in a live stream or recording must not be altered, reproduced or republished without the permission of the City.

4.51 Copyright remains with the City.

4.52 There may be situations where, due to technical difficulties beyond the City's control, a live stream or recording of a meeting may not be available. Every reasonable effort will be made to ensure live streams and meeting recordings are made available on the City's website.

4.53 The City takes no responsibility for, and accepts no liability, in the event that live streaming of a meeting, a recording of a meeting, or the City's website is unavailable.

4.54 Technical issues may include, but are not limited to, the availability of the internet and network or device failure or malfunction.

Note: Clauses 4.38-4.54 are supplementary provisions

Attendance of the Chief Executive Officer and other staff at meetings

4.55 The Chief Executive Officer 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 4.55 reflects section 376(1) of the Act.

4.56 The Chief Executive Officer 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 4.56 reflects section 376(2) of the Act.

4.57 The Chief Executive Officer 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 Chief Executive Officer or the terms of employment of the Chief Executive Officer.

Note: Clause 4.57 reflects section 376(3) of the Act.

4.58 The attendance of other council staff at a meeting (other than as members of the public) shall be with the approval of the Chief Executive Officer.

4.59 The Chief Executive Officer and other council staff may attend meetings of the council and committees 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 Chief Executive Officer.

5. The Chairperson

The chairperson at meetings

5.1 The Lord Mayor, or at the request of or in the absence of the Lord Mayor, the Deputy Lord Mayor (if any) presides at meetings of the council.

Note: Clause 5.1 reflects section 369(1) of the Act.

5.2 If the Lord Mayor and the Deputy Lord Mayor (if any) are absent, a councillor elected to chair the meeting by the councillors present presides at a meeting of the council.

Note: Clause 5.2 reflects section 369(2) of the Act.

Election of the chairperson in the absence of the Lord Mayor and Deputy Lord Mayor

5.3 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 the meeting.

5.4 The election of a chairperson must be conducted:

- (a) by the Chief Executive Officer or, in their absence, an employee of the council designated by the Chief Executive Officer to conduct the election, or
- (b) by the person who called the meeting or a person acting on their behalf if neither the Chief Executive Officer nor a designated employee is present at the meeting, or if there is no Chief Executive Officer or designated employee.

5.5 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.

5.6 For the purposes of clause 5.5, 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.

5.7 The candidate whose name is on the drawn slip is the candidate who is to be the chairperson.

5.8 Any election conducted under clause 5.3, and the outcome of the vote, are to be recorded in the minutes of the meeting.

Chairperson to have precedence

- 5.9 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.
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Recognition of chairperson

5.10 In addressing council, councillors and other persons addressing the council shall at all times speak through the chairperson.

5.11 Councillors and other persons addressing the council shall at all times show appropriate respect and observe the ruling of the chairperson.

5.12 A councillor, despite the clauses immediately above, may, through a motion of dissent, challenge a ruling from the chairperson.

Note: Clauses 5.10-5.12 are supplementary provisions

6. Modes of address

6.1 To facilitate debate, councillors, with the exception of the chairperson, are to stand in their place when speaking at a meeting of council (except when prevented by disability or injury). This procedure does not need to be followed at meetings of committees, where a meeting is being held by audio-visual link, where a councillor is attending a meeting by audio-visual link or in circumstances where the chairperson rules that standing is not required.

6.2 In addressing council, councillors and other persons addressing the council will use the appropriate mode of address to the Lord Mayor, Deputy Lord Mayor, fellow councillors, employees of council and members of the public in attendance.

6.3 Councillors shall refrain from the use of offensive or inappropriate words in reference to any councillors, employees of council and members of the public consistent with the City's Code of Conduct.

6.4 Councillors shall not make imputations of improper motives or personal reflections on councillors, employees of council and members of the public, consistent with the City's Code of Conduct.

Note: Clauses 6.1-6.4 are non-mandatory provisions

7. Order of business for ordinary Council meetings

7.1 At a meeting of Council, the general order of business is as fixed by resolution of the council.

7.2 The order of business as fixed under clause 7.1 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: Part 12 allows council to deal with items of business by exception.

7.3 Despite clauses 9.27-9.36, only the mover of a motion referred to in clause 7.2 may speak to the motion before it is put.

8. Consideration of business at Council meetings

Business that can be dealt with at a council meeting

- 8.1 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 3.17, and
 - (b) unless notice of the business has been sent to the councillors in accordance with clause 3.13 in the case of an ordinary meeting or clause 3.15 in the case of an extraordinary meeting called in an emergency.
- 8.2 Clause 8.1 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 8.9, is a matter or topic put to the meeting by way of a mayoral minute, or
 - (d) is a motion for the adoption of recommendations of a committee, including, but not limited to, a committee of the council.
- 8.3 Despite clause 8.1, 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.
- 8.4 A motion moved under clause 8.3(a) can be moved without notice. Despite clauses 9.27-9.36, only the mover of a motion referred to in clause 8.3(a) can speak to the motion before it is put.
- 8.5 A motion of dissent cannot be moved against a ruling by the chairperson under clause 8.3(b).

Lord Mayoral minutes

8.6 Subject to clause 8.9, if the Lord Mayor is the chairperson at a meeting of the council, the Lord Mayor may, by minute signed by the Lord Mayor, 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.

8.7 A lord mayoral minute, when put to a meeting, takes precedence over all business on the council's agenda for the meeting. The chairperson (but only if the chairperson is the Lord Mayor) may move the adoption of a lord mayoral minute without the motion being seconded.

8.8 A recommendation made in a lord mayoral minute put by the Lord Mayor is, so far as it is adopted by the council, a resolution of the council.

8.9 A lord mayoral 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.

8.10 Where a lord mayoral 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 lord mayoral minute does not identify a funding source, the council must defer consideration of the matter, pending a report from the Chief Executive Officer on the availability of funds for implementing the recommendation if adopted.

Note: Clause 8.10 is a non-mandatory provision.

Staff reports

8.11 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

8.12 The recommendations of a committee of the council are, so far as they are adopted by the council, resolutions of the council.

8.13 If in a report of a committee of the council distinct recommendations are made, the council may make separate decisions on each recommendation.

Questions

8.14 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 3.17 and 3.21.

8.15 A councillor may, through the chairperson, put a question to another councillor about a matter on the agenda.

8.16 A councillor may, through the Chief Executive Officer, 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 Chief Executive Officer at the direction of the Chief Executive Officer.

8.17 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 information. 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.

8.18 Councillors must put questions directly, succinctly, respectfully and without argument.

8.19 The chairperson must not permit discussion on any reply to, or refusal to reply to, a question put to a councillor or council employee.

9. Rules of debate

Motions to be seconded

9.1 Unless otherwise specified in this code, a motion or an amendment cannot be debated unless or until it has been seconded.

9.2 Debate on a motion or amendment commences once the mover has spoken to the motion or amendment.

9.3 If, however, the mover reserves his or her right to speak on the motion or amendment, the motion or amendment must be seconded for debate to proceed.

Note: This provision will enable the mover of a motion to speak to a motion without it being seconded. If the motion is not seconded after the mover has spoken, it will lapse.

Note: Clauses 9.2 and 9.3 are supplementary provisions

Notices of motion

9.4 A councillor who has submitted a notice of motion under clause 3.17 is to move the motion the subject of the notice of motion at the meeting at which it is to be considered.

9.5 If a councillor who has submitted a notice of motion under clause 3.17 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.

9.6 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.
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Chairperson's duties with respect to motions

9.7 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.

9.8 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.

9.9 Before ruling out of order a motion or an amendment to a motion under clause 8.6, the chairperson is to give the mover an opportunity to clarify or amend the motion or amendment.

9.10 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

9.11 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 Chief Executive Officer on the availability of funds for implementing the motion if adopted.

Note: Clause 9.11 is a non-mandatory provision.

Amendments to motions

9.12 An amendment to a motion must be moved and seconded before it can be debated.

9.13 The amendment must also be moved before the debate on the motion has been concluded and the right of reply of the mover of the motion has been exercised.

Note: Clause 9.13 is supplementary provision.

9.14 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.

9.15 An amendment must not be moved that is substantially the same as an earlier rejected amendment on the motion.

9.16 An amendment that is in opposition to an amendment already accepted must not be moved or accepted for debate.

Note: Clauses 9.15 and 9.16 are supplementary provisions

9.17 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.

9.18 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.

9.19 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.

9.20 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.

9.21 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

9.22 A councillor may propose a foreshadowed motion in relation to 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.

9.23 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.

9.24 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.

9.25 The chairperson may exercise discretion and recommend to the meeting a change of order for foreshadowed motions or amendments.

9.26 Foreshadowed motions or amendments are still subject to the clause 8.1 (to be moved and seconded).

Note: Clauses 9.25 and 9.26 are supplementary provisions

Limitations on the number and duration of speeches

9.27 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.

9.28 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.

9.29 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.

9.30 Despite clause 9.29, 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.

9.31 Nothing in clauses 9.27, 9.28 or 9.29 affects questions being asked, with the leave of the chairperson, relevant to any matter under discussion at a meeting.

Note: Clause 9.31 is a supplementary provision.

9.32 Despite clause 9.30, the council may resolve to shorten the duration of speeches to expedite the consideration of business at a meeting.

9.31 Despite clauses 9.27 and 9.28, 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 councillors have spoken against it.

Code of Meeting Practice

9.33 The chairperson must immediately put to the vote, without debate, a motion moved under clause 9.31. A seconder is not required for such a motion.

9.34 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 9.27.

9.35 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.

9.36 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.

9.37 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. Voting

Voting entitlements of councillors

10.1 Each councillor is entitled to one vote.

Note: Clause 10.1 reflects section 370(1) of the Act.

10.2 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 10.2 reflects section 370(2) of the Act.

10.3 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.

Voting at council meetings

10.4 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.

10.5 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 Lord Mayor or Deputy Lord Mayor is to be by secret ballot.

10.6 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.

Voting on planning decisions

10.7 The Chief Executive Officer 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.

10.8 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.

10.9 Clauses 10.7 and 10.8 apply also to meetings that are closed to the public.

Note: Clauses 10.7 to 10.9 reflect section 375A of the Act.

Note: The requirements of clause 10.7 may be satisfied by maintaining a register of the minutes of each planning decision.

11. Committee of the whole

11.1 The council may resolve itself into a committee to consider any matter before the council.

Note: Clause 11.1 reflects section 373 of the Act.

11.2 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 9.27-9.37 limit the number and duration of speeches.

11.3 The Chief Executive Officer or, in the absence of the Chief Executive Officer, an employee of the council designated by the Chief Executive Officer, 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.

11.4 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.

12. Dealing with items by exception

12.1 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.

12.2 Before the council or committee resolves to adopt multiple items of business on the agenda together under clause 12.1, 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.

12.3 The council or committee must not resolve to adopt any item of business under clause 12.1 that a councillor has identified as being one they intend to vote against the recommendation made in the business paper or to speak on.

12.4 Where the consideration of multiple items of business together under clause 12.1 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 6.2.

12.5 A motion to adopt multiple items of business together under clause 12.1 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.

12.6 Items of business adopted under clause 12.1 are to be taken to have been adopted unanimously.

12.7 Councillors must ensure they declare and manage any conflicts of interest they may have in relation to items of business considered together under clause 12.1 in accordance with the requirements of the council's code of conduct.

Note: Clauses 12.1-12.7 are non-mandatory provisions.

13. Closure of Council meetings to the public

Grounds on which meetings can be closed to the public

13.1 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, or
- (i) alleged contraventions of the council's code of conduct.

Note: Clause 13.1 reflects section 10A(1) and (2) of the Act.

13.2 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 13.2 reflects section 10A(3) of the Act.

Matters to be considered when closing meetings to the public

13.3 A meeting is not to remain closed during the discussion of anything referred to in clause 13.1:

- (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 13.3 reflects section 10B(1) of the Act.

13.4 A meeting is not to be closed during the receipt and consideration of information or advice referred to in clause 13.1(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 13.4 reflects section 10B(2) of the Act.

13.5 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 13.2), 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 13.1.

Note: Clause 13.5 reflects section 10B(3) of the Act.

13.6 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 13.6 reflects section 10B(4) of the Act.

13.7 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 13.7 reflects section 10B(5) of the Act.

Notice of likelihood of closure not required in urgent cases

13.8 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 3.40 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 13.1, and
- (b) the council or committee, after considering any representations made under clause 13.9, 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 13.8 reflects section 10C of the Act.

Representations by members of the public

13.9 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 13.9 reflects section 10A(4) of the Act.

13.10 A representation under clause 13.9 is to be made after the motion to close the part of the meeting is moved and seconded.

13.11 Where the matter has been identified in the agenda of the meeting under clause 3.40 as a matter that is likely to be considered when the meeting is closed to the public, in order to make representations under clause 13.9, members of the public must first make an application to the council in the approved form. Applications must be received four hours before the meeting at which the matter is to be considered.

13.12 The Chief Executive Officer (or their delegate) may refuse an application made under clause 13.11. The Chief Executive Officer or their delegate must give reasons in writing for a decision to refuse an application.

13.13 No more than three (3) speakers are to be permitted to make representations under clause 13.9.

13.14 If more than the permitted number of speakers apply to make representations under clause 13.9, the Chief Executive Officer 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 13.9, the Chief Executive Officer or their delegate is to determine who will make representations to the council.

13.15 The Chief Executive Officer (or their delegate) is to determine the order of speakers.

13.16 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 3.39 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 13.9 after the motion to close the part of the meeting is moved and seconded. The chairperson is to permit no more than three speakers to make representations in such order as determined by the chairperson.

13.17 Each speaker will be allowed three (3) 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.

13.18 Apart from the circumstances referred to in the clauses above, and in view of the opportunity provided to members of the public to address meetings of committees, no provision is made for members of the public to address meetings of council.

Note: Clause 13.18 is a supplementary provision

Expulsion of non-councillors from meetings closed to the public

13.19 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.

13.20 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

13.21 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

13.22 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 13.22 reflects section 10D of the Act.

Resolutions passed at closed meetings to be made public

13.23 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.

13.24 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 13.23 during a part of the meeting that is webcast.

14. Keeping order at meetings

Observe the Code of Conduct and Code of Meeting Practice

14.1 Councillors, employees of council and other persons at the meeting are required to observe the Code of Meeting Practice at all meetings of council.

14.2 Failure on the part of a councillor or an employee to observe the Code of Meeting Practice may be subject to a complaint under the Code of Conduct.

Note: Clauses 14.1 and 14.2 are supplementary provisions.

General procedural motions

14.3 A procedural motion is a motion that refers to the conduct of a meeting.

14.4 Procedural motions are not subject to the notice of motion requirements in clause 3.17.

14.5 In general, a procedural motion requires a seconder, unless stated to the contrary in the Code of Meeting Practice.

14.6 Unless stated to the contrary in this Code of Meeting Practice, there is no debate on a procedural motion.

14.7 A procedural motion has precedence over substantive motions and must be put to the meeting for a decision.

Note: Clauses 14.3-14.7 are supplementary provisions.

Points of order

14.8 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.

14.9 A point of order cannot be made with respect to adherence to the principles contained in clause 2.1.

14.10 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

14.11 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.

14.12 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.

14.13 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.

14.14 The chairperson's ruling must be obeyed unless a motion dissenting from the ruling is passed.

Motions of dissent

14.15 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.

14.16 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.

14.17 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.

14.18 A motion of dissent does not require a seconder.

Note: Clause 14.18 is a supplementary provision.

Acts of disorder

14.19 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, 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.

Note: Clause 14.19 reflects section 182 of the Regulation.

14.20 The chairperson may require a councillor:

- (a) to apologise without reservation for an act of disorder referred to in clauses 14.19 (a), (b) or (e), or
- (b) to withdraw a motion or an amendment referred to in clause 14.19 (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 14.19 (d) and (e).

Note: Clause 14.20 reflects section 233 of the Regulation.

How disorder at a meeting may be dealt with

14.21 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.

Warning to councillors

14.22 If the chairperson of the meeting is of the view that the ongoing behaviour of a councillor is disruptive to the good order of the meeting, the chairperson:

- (a) shall warn the councillor they could face a motion to authorise removal from the meeting if they continue to breach the Code of Meeting Practice, and
- (b) if a further breach occurs, seek the views of the meeting as to the removal of the councillor.

Note: Clause 14.22 is a supplementary provision

Expulsion from meetings

14.23 All chairpersons of meetings of the council and committees of the council are authorised under this code to expel any person, including any councillor, from a council or committee meeting, for the purposes of section 10(2)(b) of the Act.

14.24 Clause 14.23 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.

14.25 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 14.20. 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.

14.26 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.

Note: Clause 14.26 reflects section 233(2) of the Regulation.

14.27 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.

14.28 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

14.29 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.

14.30 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.

Note: Clauses 14.29 and 14.30 are non-mandatory provisions.

Use of mobile phones and the unauthorised recording of meetings

14.31 Councillors, council staff and members of the public must ensure mobile phones are turned to silent during meetings of the council and committees of the council.

14.32 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.

14.33 Without limiting clause 14.26, a contravention of clause 14.32 or an attempt to contravene that clause, constitutes disorderly conduct for the purposes of clause 14.26. Any person who contravenes or attempts to contravene clause 14.32, may be expelled from the meeting as provided for under section 10(2) of the Act.

14.34 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.

14.35 Clause 14.32, as it applies to an audio recorder, video camera, mobile phone or any other device, also applies to photography at council or committee meetings and any means of recording a meeting held using audio-visual technology (except by authorised council staff).

Note: Clause 14.35 is a supplementary provision.

15. Conflicts of interest

15.1 All councillors and, where applicable, all other persons, must declare and manage any conflicts of interest they may have in matters being considered at meetings of the council and committees of the 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.

15.2 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.

Note: Clause 15.2 is a non-mandatory provision.

Disclosure of pecuniary interests

15.3 A councillor who has a pecuniary interest in a matter being considered at a council or committee meeting must disclose the existence of the interest and also the nature of that interest. Councillors are to make such a disclosure in writing and provide the written disclosure to the Chief Executive Officer prior to or at the commencement of the meeting.

15.4 Councillors are also to verbally declare any pecuniary interest at the commencement of each meeting when disclosures are sought from the Chair.

15.5 If a councillor becomes aware of an interest during a meeting, as soon as the councillor becomes aware of the interest the councillor must:

- (a) disclose the interest verbally at the council or committee meeting; and
- (b) submit the interest in writing to the Chief Executive Officer during or as soon as possible after the council or committee meeting.

15.6 A councillor, having disclosed a pecuniary interest, must not be present at the meeting when the matter is being considered, discussed or voted on.

15.7 A councillor with a pecuniary interest in a matter is not counted for the purposes of quorum on that matter.

15.8 Written disclosures of interest will be tabled at the relevant meeting, or, if disclosed during the meeting, at the next meeting of the Council.

Note: Clauses 15.3-15.8 are supplementary provisions.

Disclosure of non-pecuniary interests

15.9 A councillor or a member of a council committee who has a non-pecuniary interest in any matter with which the council is concerned, and who will be or is present at a meeting of the council or committee at which the matter is being considered, must consider disclosing the non-pecuniary interest, in accordance with the council's code of conduct, in writing to the Chief Executive Officer prior to or at the commencement of each committee or council meeting.

15.10 If a non-pecuniary interest becomes apparent to a councillor during a meeting, as soon as the councillor becomes aware of the interest the councillor must:

- (a) disclose the interest verbally at the council or committee meeting; and
- (b) submit the interest in writing to the Chief Executive Officer during or as soon as possible after the council or committee meeting.

15.11 A disclosure in accordance with clause 15.9 or 15.10 must indicate the nature of the non-pecuniary interest.

15.12 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.

15.13 Written disclosures of interest will be tabled at the relevant meeting, or, if disclosed during the meeting, at the next meeting of the Council.

15.14 In accordance with the council's code of conduct, councillors should note that matters before council involving campaign donors may give rise to a non-pecuniary conflict of interests.

Note: Clauses 15.9-15.14 are supplementary provisions.

Disclosures in the business paper

15.15 The business paper for a council meeting will include a reference to any disclosure of interests of councillors and designated persons which are to be tabled at the meeting.

Note: Clause 15.15 is a supplementary provision.

16. Decisions of the Council

Council decisions

16.1 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 16.1 reflects section 371 of the Act.

16.2 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

16.3 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 3.17.

Note: Clause 16.3 reflects section 372(1) of the Act.

16.4 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 16.4 reflects section 372(2) of the Act.

16.5 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 3.17.

Note: Clause 16.5 reflects section 372(3) of the Act.

16.6 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 16.6 reflects section 372(4) of the Act.

16.7 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 16.7 reflects section 372(5) of the Act.

16.8 The provisions of clauses 16.5–16.7 concerning lost motions do not apply to motions of adjournment.

Note: Clause 16.8 reflects section 372(7) of the Act.

16.9 A notice of motion submitted in accordance with clause 16.6 may only be withdrawn under clause 3.18 with the consent of all signatories to the notice of motion.

16.10 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 16.10 reflects section 372(6) of the Act.

16.11 Subject to clause 16.7, 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 (3) 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 great urgency on the grounds that it requires a decision by the council before the next scheduled ordinary meeting of the council.

16.12 A motion moved under clause 16.11(b) can be moved without notice. Despite clauses 9.27-9.36, only the mover of a motion referred to in clause 16.11(b) can speak to the motion before it is put.

16.13 A motion of dissent cannot be moved against a ruling by the chairperson under clause 16.11(c).

16.14 If in the circumstances the Chief Executive Officer or specified delegate receives a notice of motion in accordance with clause 16.3, the Chief Executive Officer or specified delegate must ensure action to carry the resolution into effect, if not yet commenced, is not commenced; and, if already commenced, is ceased and no further action taken until the rescission motion is dealt with.

16.15 If notice of intention to lodge a notice of motion to alter or rescind a resolution has been given by a councillor at a council meeting and a notice of motion has not been lodged with the Chief Executive Officer or specified delegate in accordance with clause 16.3, action to carry the resolution into effect will commence.

16.16 The draft motion that is proposed to be moved, should the rescission motion be carried, must be lodged in accordance with the Notice of Motion provisions of this Code, if such proposed motion has not already been stated in the rescission motion.

Note: Clauses 16.14-16.16 are supplementary provisions

Recommitting resolutions to correct an error

16.17 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.

16.18 In seeking the leave of the chairperson to move to recommit a resolution for the purposes of clause 16.17(a), the councillor is to propose alternative wording for the resolution.

16.19 The chairperson must not grant leave to recommit a resolution for the purposes of clause 16.17(a), unless they are satisfied the proposed alternative wording of the resolution would not alter the substance of the resolution previously adopted at the meeting.

16.20 A motion moved under clause 16.17 can be moved without notice. Despite clauses 9.27-9.37, only the mover of a motion referred to in clause 16.17 can speak to the motion before it is put.

16.21 A motion of dissent cannot be moved against a ruling by the chairperson under clause 16.17.

16.22 A motion moved under clause 16.17 with the leave of the chairperson cannot be voted on unless or until it has been seconded.

Note: Clauses 16.17-16.22 are non-mandatory provisions.

17. Time limits on Council meetings

17.1 Meetings of the council and committees of the council are to conclude no later than 10.00pm.

17.2 If the business of the meeting is unfinished at 9.45pm, the council or the committee may, by resolution, extend the time of the meeting.

17.3 If the business of the meeting is unfinished at 10.00pm, and the council does not resolve to extend the meeting, the chairperson must either:

- (a) defer consideration of the remaining items of business on the agenda to the next ordinary meeting of the council, or
- (b) adjourn the meeting to a time, date and place fixed by the chairperson.

17.4 Clause 17.3 does not limit the ability of the council or a committee of the council to resolve to adjourn a meeting at any time. The resolution adjourning the meeting must fix the time, date and place that the meeting is to be adjourned to.

17.5 Where a meeting is adjourned under clause 17.3 or 17.4, the Chief Executive Officer must:

- (a) individually notify each councillor of the time, date and place at which the meeting will reconvene, and
- (b) publish the time, date and place at which the meeting will reconvene on the council's website and in such other manner that the Chief Executive Officer is satisfied is likely to bring notice of the time, date and place of the reconvened meeting to the attention of as many people as possible.

Note: Clauses 17.1-17.5 are non-mandatory provisions.

Motion to adjourn meeting

17.6 A councillor may move the procedural motion "that the meeting be adjourned".

17.7 The motion before being put to the vote must be seconded by a councillor.

17.8 The mover of the motion may address the meeting on the motion.

17.9 No further debate on the motion is permitted.

Note: Clauses 17.6-17.9 are supplementary provisions

Amendment to adjourn meeting motion

17.10 Amendments to the motion are permitted, but only to the extent that they relate to the timing and place of reconvening the meeting.

17.11 Amendments to the motion to adjourn a meeting are to be moved and seconded.

17.12 The mover of the amendment may address the meeting as to the content of the proposed amendment.

17.13 Any address to the motion of adjournment or amendment is limited to three minutes.

Note: Clauses 17.10-17.13 are supplementary provisions

Re-convening an adjourned meeting

17.14 The Notice of Meeting provisions do not apply to a re-convened meeting.

17.15 A re-convened meeting will commence in accordance with any motion or amendment and will continue as if there had been no break in the proceedings of the meeting.

17.16 To the extent that it is practical, public notice of the re-convened meeting is to be given.

17.17 In the circumstances of an adjourned meeting for which there was no specified time and place for the meeting to be re-convened, council will deal with any unfinished business for which notice was given at the next ordinary meeting of council.

Note: Clauses 17.14-17.17 are supplementary provisions.

18. After the meeting

Minutes of meetings

18.1 The council is to keep full and accurate minutes of the proceedings of meetings of the council.

Note: Clause 18.1 reflects section 375(1) of the Act.

18.2 At a minimum, the Chief Executive Officer 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,

Note: Clause 18.2(a) is a non-mandatory provision.

(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.

18.3 The minutes of a council meeting must be confirmed at a subsequent meeting of the council.

Note: Clause 18.3 reflects section 375(2) of the Act.

18.4 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.

18.5 When the minutes have been confirmed, they are to be signed by the person presiding at the subsequent meeting.

Note: Clause 18.5 reflects section 375(2) of the Act.

18.6 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.

18.7 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.

18.8 Minutes of council meetings are to be made accessible via the City of Sydney website to councillors and the public as soon as practicable following council meetings (generally within three (3) business days).

Note: Clause 18.8 is a supplementary provision.

Access to correspondence and reports laid on the table at, or submitted to, a meeting

18.9 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 18.9 reflects section 11(1) of the Act.

18.10 Clause 18.9 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 18.10 reflects section 11(2) of the Act.

18.11 Clause 18.9 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 18.11 reflects section 11(3) of the Act.

18.12 Correspondence or reports to which clauses 18.10 and 18.11 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

18.13 The Chief Executive Officer is to implement, without undue delay, lawful decisions of the council.

Note: Clause 18.13 reflects section 335(b) of the Act.

19. Council Committees

Application of this Part

19.1 This Part only applies to committees of the council whose members are all councillors.

Council committees whose members are all councillors

19.2 The council may, by resolution, establish such committees as it considers necessary.

19.3 A committee of the council is to consist of the Lord Mayor and such other councillors as are elected by the councillors or appointed by the council.

19.4 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.

19.5 All councillors are members of each committee of the council created by resolution of council.

Note: Clause 19.5 is a supplementary provision

Functions of committees

19.6 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.

19.7 All committees and sub-committees shall be advisory to council and have no independent role, except where specific authorities are delegated to them by council

19.8 The number, functions, policies, procedures, delegations, membership, quorums and chairpersons of committees of council shall be as determined by council from time to time.

19.9 Except as otherwise provided, meetings of council committees are to be conducted in accordance with this Code of Meeting Practice.

Note: Clauses 19.7-19.9 are supplementary provisions

Notice of committee meetings

19.10 The Chief Executive Officer 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.

19.11 Notice of less than three (3) days may be given of a committee meeting called in an emergency.

Attendance at committee meetings

19.12 A committee member (other than the Lord Mayor) ceases to be a member of a committee if the committee member:

- (a) has been absent from three 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.

19.13 Clause 19.12 does not apply if all of the members of the council are members of the committee.

Non-members entitled to attend committee meetings

19.14 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

19.15 The chairperson of each committee of the council must be:

- (a) the Lord Mayor, or
- (b) if the Lord Mayor 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.

19.16 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.

19.17 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.

19.18 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.

Addressing committees

19.19 Members of the public may address meetings of committees on items that are on the committee agendas, subject to the approval of the relevant committee.

19.20 The committee chairperson may ask members of the public to restrict their addresses to no more than three (3) minutes.

19.21 The committee chairperson may suggest that, if a satisfactory resolution to the matter on the agenda is being considered, there may be no need for members of the public to address the committee.

19.22 Committees, and council staff on behalf of committees, may invite applicants, consultants, Government authorities and other groups or individuals to provide a presentation to a committee on a matter that is on the committee agenda. Time limits for such presentations may be set by the committee.

19.23 Speakers are asked to register to speak before noon on the day of the committee meeting.

19.24 Speakers are requested to declare membership of organisations or other interests relevant to consideration of the item that they wish to speak to.

19.25 If there are a large number of people interested in the same item, it is suggested a maximum of three (3) representatives be nominated to speak on behalf of a group and indicate how many people they are representing.

Note: Clauses 19.19-19.25 are supplementary provisions

Procedure in committee meetings

19.26 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.

19.27 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 19.26.

19.28 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

19.29 The provisions of the Act and Part 13 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.

19.30 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.

19.31 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 19.30 during a part of the meeting that is webcast.

Disorder in committee meetings

19.32 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

19.33 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,

Note: Clause 19.33(a) is a non-mandatory provision.

- (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
- (e) such other matters specifically required under this code.

19.34 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.

Note: Clause 19.34 is a non-mandatory provision.

19.35 The minutes of meetings of each committee of the council must be confirmed at a subsequent meeting of the committee.

19.36 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.

19.37 When the minutes have been confirmed, they are to be signed by the person presiding at that subsequent meeting.

19.38 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.

19.39 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.

20. Irregularities

20.1 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 20.1 reflects section 374 of the Act.

21. Definitions

the Act	means the Local Government Act 1993
act of disorder	means an act of disorder as defined in clause 13.20 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
audio-visual link	means a facility that enables audio and visual communication between persons at different places and includes facilities enabling a hybrid meeting
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 5.1 and 5.2 of this code, and in relation to a meeting of a committee – means the person presiding at the meeting as provided by clause 18.15 of this code
this code	means the council's adopted code of meeting practice

Code of Meeting Practice

committee of the council	means a committee established by the council in accordance with clause 18.2 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 10.1
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 9.7 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 8.24 of this code during debate on the first amendment
foreshadowed motion	means a motion foreshadowed by a councillor under clause 8.23 of this code during debate on an original motion
hybrid meeting	means a meeting where some participants attend in person and others participate by way of audio-visual link
open voting	means voting on the voices or by a show of hands or by a visible electronic voting system or similar means

Code of Meeting Practice

planning decision	means a decision made in the exercise of a function of a council under the Environmental Planning and Assessment Act 1979 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 Local Government (General) Regulation 2021
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



Attachment B

<p>Draft Councillors' Expenses and Facilities Policy</p>

Draft Councillors' Expenses and Facilities Policy



Draft Councillors' Expenses and Facilities Policy

Resolution of Council: 21 November 2022

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Definitions

The **City of Sydney** or the **City** refers to the Council as an organisation, responsible for the administration of the city.

The **Council** refers to the elected Councillors, as the governing body of the City of Sydney.

The **city** refers to the geographical area that is administered by the City of Sydney and its physical elements (and is sometimes referred to as the local government area or LGA).

Disclaimer

The Councillors' Expenses and Facilities Policy includes references to the *Local Government Act 1993* (the Act) and the *Local Government (General) Regulation 2021* (the Regulation). The Act and the Regulation may be subject to amendment from time to time. In the event of any inconsistency between the Councillors' Expenses and Facilities Policy and the Act and the Regulation, the Act and the Regulation must be relied upon rather than the Councillors' Expenses and Facilities Policy.

Introduction

Overview

Council is required to adopt a policy concerning the payment of expenses incurred by, and the provision of facilities to, the Lord Mayor, Deputy Lord Mayor and Councillors. The provision of such facilities and expenses assists the Lord Mayor and Councillors to undertake their respective roles under the *Local Government Act, 1993* (the Act) and provides reasonable recompense for expenses they incur in carrying out the functions of civic office.

Under section 252(5) of the Act, the Policy must comply with the provisions of the Act, the *Local Government (General) Regulation 2021* (the Regulation) and any relevant guidelines issued by the Chief Executive of the Office of Local Government under section 23A of the Act.

The City of Sydney's Councillors' Expenses and Facilities Policy (this Policy) is made in accordance with the Act (including sections 252, 253 and 254) and the Regulation and has been prepared with reference to, and in compliance with, the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors in NSW (October 2009). This Policy should be read in conjunction with the Guidelines.

The Lord Mayor, Deputy Lord Mayor and Councillors can only be reimbursed for expenses and provided with facilities in accordance with this Policy and for the purpose of carrying out the functions of their civic office.

Purpose

This Policy sets the framework for:

- the provision of adequate and reasonable expenses and facilities to the Lord Mayor, Deputy Lord Mayor and Councillors to enable them to carry out their respective roles under the Act;
- the provision of expenses and facilities to all members of Council's governing body in a manner that is transparent and accountable, and meets the expectations of the local community; and
- compliance with relevant legislative requirements for Council to review and adopt a policy concerning the payment of expenses and the provision of facilities to the Lord Mayor, Deputy Lord Mayor and Councillors.

Guiding Principles

Global Sydney

The Lord Mayor and Councillors elected to the Council of the City of Sydney are members of the governing body for Australia's primary global city.

The City of Sydney local government area is a key driver of the national economy, with a sphere of economic influence that is the greatest of any local government area in Australia".

~~Economic activity (GDP) generated within the City of Sydney local government area was estimated at approximately \$135 billion for 2020-2021, representing over 7 per cent of the total national economy, over 30 per cent of the Sydney metropolitan economy and over 20 per cent of the entire GDP for New South Wales.~~

The City of Sydney is:

- a leading Asia-Pacific financial centre and home to Australia's largest and most globally connected finance and insurance district;
- a global tourism destination and gateway to Australia for overseas tourists and visitors;
- a multipurpose centre specialising in higher order retailing serving the needs of visitors, workers and residents of the city, Sydney region and New South Wales;
- a principal centre of intellectual activity, media and communications, major centre for the professions and specialised medical services and an educational centre of excellence;
- the focus for major civic, ceremonial and religious activities of the Sydney region, New South Wales and Australia; and

- a cultural, recreation and entertainment destination for the Sydney region with national significance.

~~With more than 1.3 million residents, workers and visitors in our local government area daily before the onset of the Covid-19 pandemic, the City of Sydney is unique within the NSW local government environment.~~

Scale, Scope and Nature of Expenses and Facilities

Given the global status of the City of Sydney, there is an expectation that the Lord Mayor, Deputy Lord Mayor and Councillors will represent Council at city, state and national business, government, community, cultural and other stakeholder forums.

This is in addition to Councillors' responsibilities to residents, ratepayers and businesses, workers and visitors in the city as elected persons and members of the governing body of Council under the Act.

The provisions of this Policy ensure that City of Sydney Councillors are provided with the necessary resources and facilities and for expenses to be reimbursed in order to enable them to fully perform their role under the Act.

Participation, Equity and Access

Consistent with principles of participation, equity and access, this Policy is intended to:

- be non-discriminatory and equitable;
- enable participation on Council of people from diverse backgrounds that represent the demographics of our local community;

- enable all members of the community from different walks of life, particularly underrepresented groups such as those in primary caregiver roles, to seek election to council by ensuring that they would not be financially or otherwise disadvantaged in undertaking the civic duties of a councillor;
- take account of and make reasonable provision for the special needs of Councillors to allow appropriate access to council premises and facilities, and to maximise participation in the civic duties and business of council; and
- allow Councillors to represent our local community in different ways and take account of, as much as possible, individual differences.

Annual Fees

This Policy excludes annual fees paid to the Lord Mayor and Councillors under sections 248 to 251 of the Act. The Lord Mayor, Deputy Lord Mayor and Councillors of the City of Sydney are paid an annual fee according to determinations made by the Local Government Remuneration Tribunal.

Under the Act, the Tribunal's role is to determine the categories of councils and mayoral offices in New South Wales, place each council and mayoral office into one of the categories it has determined (at least once every three years), and on an annual basis set the minimum and maximum fees payable to councillors and mayors in each category. ~~Effective from July 2021, there will be~~ There are two categories with a total of 13 sub-categories:

General Purpose Councils - Metropolitan

- Principal CBD
- Major CBD
- Metropolitan Large
- Metropolitan Medium
- Metropolitan Small

General Purpose Councils - Non-Metropolitan

- Major Regional City
- Major Strategic Area
- Regional Strategic Area
- Regional Centre
- Regional Rural
- Rural
- County Councils – Water
- County Councils - Other

In determining the appropriate category allocation, the Act requires the Tribunal to have regard to matters such as:

- the size of areas;
- the physical terrain of areas;
- the population of areas and the distribution of the population;
- the nature and volume of business dealt with by each council;
- the nature and extent of the development of areas;
- the diversity of communities served;
- the regional, national and international significance of the council.

The City of Sydney is currently the only Council in NSW categorised as a Principal CBD by the Tribunal. As a matter of standing policy, Council has resolved that:

- having regard to the Tribunal's determination of a fee range for Councillors and the Lord Mayor, Council shall always pay the maximum fees as determined by the Tribunal; and

- the Deputy Lord Mayor’s fees, to be deducted from the gross Lord Mayor’s fee, shall be equal to 10 per cent of the mayoral fee actually paid to the Lord Mayor.

Councillors’ annual fees are paid monthly in arrears in accordance with the provisions of the Act.

Relationship between Annual Fees and Expenses

Consistent with the position of the Office of Local Government and the Tribunal, this Policy provides for a level of expense and facility entitlements, informed by, but set independent of, the level of annual fees payable to the Lord Mayor and Councillors.

Superannuation

Section 254B of the Act allows for superannuation contributions to be made to Councillors from 1 July 2021. On 11 April 2022, Council resolved to begin making superannuation contribution payments to councillors.

The amount of a superannuation contribution payment is the amount the City would have been required to contribute under the Commonwealth superannuation legislation as superannuation if the councillor were an employee of the City. As of 1 July 2022, the superannuation guarantee rate will be 10.5 per cent. The rate will increase by half a percent each year until 1 July 2025 when it reaches 12 per cent.

Legislative and Policy Provisions

Provisions under the Act

Section 252 of the Act requires Council to adopt or amend a policy for the payment of expenses incurred or to be incurred by, and the provision of facilities to, the Lord Mayor, Deputy Lord Mayor and Councillors.

Section 253 of the Act specifies actions Council must undertake before its policy concerning Councillors’ expenses and facilities can be adopted or amended.

Section 254 of the Act requires that a part of the Council or Committee meeting which considers the adoption or amendment of the expenses and facilities policy will be open to the public.

Provisions under the Regulation

Section 403 of the Regulation states that the policy must not provide for the payment of a general expense allowance to any Councillor or for a vehicle to be made available for the exclusive use of a Councillor, other than the Lord Mayor.

It is not appropriate or lawful for the City to pay any Councillor an allowance in the nature of a “general expense allowance”, which is unrelated to actual expenses incurred and designed to supplement the Councillor’s annual fee.

Section 217 of the Regulation requires the City to include detailed information in its Annual Report about the payment of expenses and provision of facilities to Councillors (refer Part 6 of this Policy for further information).

Model Code of Conduct for Local Councils in NSW

Under section 439 of the Act, Councillors must act honestly and exercise a reasonable degree of care and diligence in carrying out their functions. The City of Sydney’s Code of Conduct outlines the minimum requirements of conduct for council officials carrying out their functions.

This Policy is to be read in conjunction with the Code of Conduct, which incorporates the provisions of the Model Code of Conduct for Local Councils in NSW prescribed by the Office of Local Government.

General Policy Provisions

1. General Provisions Regarding Payment of Expenses and Provision of Facilities

- 1.1 Payments for expenses and facilities not included in this Policy cannot be made by the City in accordance with section 252(3) of the Act. All expenses and facilities under this Policy will be provided to Councillors for a purpose specific to the functions of holding civic office and are only to be used for Councillors' civic duties.
- 1.2 For the purpose of this Policy, functions of civic office, civic duties or Council business may be defined as "functions that Councillors are required to undertake to fulfil their legislated role and responsibilities for the Council that should result in a direct benefit for the Council and/or for the local government area."
- 1.3 Unless otherwise stated in this Policy, all requests from Councillors for the provision of services, facilities and claims for the payment or reimbursement of expenses are to be directed to the Secretariat Unit.
- 1.4 Equipment, facilities and other resources supplied to Councillors under this Policy will be compatible with and of the same standard as other City equipment and resources.
- 1.5 The services and facilities, as detailed in this Policy, are available to Councillors while carrying out the functions of civic office. These services and facilities, unless specified, are not available for use by a spouse, partner or members of a Councillor's family.
- 1.6 Councillors are encouraged to pool or share facilities in order to make the best use of council resources. Councillors are also encouraged to limit their use of the expenses and facilities provided for in this Policy to the minimum required to enable them to effectively and efficiently discharge the functions of their civic office.
- 1.7 All equipment and facilities provided under this Policy remain the property of the City. On cessation or expiration of a Councillor's term of office, use of all equipment and facilities must cease immediately. On request, equipment and facilities must be returned to the City no later than 14 days from the date of cessation or expiration of a Councillor's term of office, or such other time period as may be specified.
- 1.8 Facilities provided to Councillors under this Policy are not to be converted or modified in any way and may only be used for carrying out the functions of civic office.

1.9 Annual expense limits apply to several categories of expenditure in this Policy. Where an annual expense limit applies, it is shown in brackets against that item and specified within the relevant clause of this Policy. All annual expense limits are based on a financial year and, where applicable, may be applied on a pro-rata basis e.g., before or after a local government election, or where the term of office of a Councillor ceases or commences during a financial year.

1.10 The City's regular monitoring and reporting on capped expenditure will identify whether any Councillor has exceeded an annual expense limit in this Policy. Councillors who exceed an annual expense limit will be invoiced and must reimburse the City in accordance with clause 41.2 of the Policy. All monetary expense limits in this Policy are exclusive of GST.

1.11 This Policy will apply to any Administrator(s) appointed by the Minister, subject to any necessary modifications.

2. Use of Council Resources

2.1 Councillors must only use council resources in accordance with the Code of Conduct. The following parts of the Code of Conduct are applicable to this Policy:

"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.

8.15 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 council letterhead, council crests, council email or social media or other information that could give the appearance it is official council material for:

a) 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."

2.2 Councillors should not obtain private benefit from the provision of equipment and facilities while on Council business. The City, however, acknowledges that incidental personal use of council equipment, facilities and resources may occur from time-to-time. This means use that is infrequent and brief and use that does not breach this Policy or the Code of Conduct ~~(for example, telephoning home to advise that a Council meeting will go until later than expected).~~ Reimbursement to the City is not required for incidental personal use.

2.3 Councillors should not obtain any greater private benefit from City equipment, facilities and resources than an incidental benefit. Where there are unavoidable circumstances and more substantial private use of City equipment and facilities does occur, Councillors must advise the Chief Executive Officer in writing and the Councillor will be invoiced for such private use and must reimburse the City in accordance with clause 41.2 of this Policy.

Payment of Expenses

3. Introduction

- 3.1 Expenses may be defined as “payments made by the City to reimburse Councillors for reasonable costs or charges incurred or to be incurred for discharging their civic functions.”
- 3.2 Unless stated otherwise, the expense reimbursement and entitlement provisions (including expense limits) detailed in Part 3 of this Policy apply to the Lord Mayor, Deputy Lord Mayor and all Councillors on a uniform basis.
- 3.3 Specific additional expense reimbursement and entitlement provisions for the Lord Mayor and Deputy Lord Mayor are detailed at clauses 25 and 26.
- the cost of any meals and the reasonable cost of beverages accompanying a meal, where any such meals are not provided as part of the Conference registration fee (refer clause 7.3 of this Policy);
 - the cost of reasonable associated travel (refer relevant provisions of clauses 21 to 23 of this Policy); and
 - the cost of other reasonable incidentals (e.g. telephone calls, internet, newspapers and parking fees).
- 4.2 Under clause 18.1 of this Policy, costs associated with the attendance of spouses, partners or accompanying persons of Councillors at the Conference are limited to the cost of registration and official conference dinners. The City will therefore meet the direct cost of spouses, partners or accompanying persons attendance at the President’s Opening Reception and the Conference Gala Dinner, or the cost of partner registration (which includes tickets to the official Conference reception and dinner) up to the \$1,0€00 annual expenditure limit in clause 18.3 of this Policy.

4. Annual Conference – Local Government NSW

- 4.1 The City will meet the following costs of attendance at the annual Local Government NSW Conference (the Conference) by all Councillors nominated as delegates:
- delegate registration costs (including official Conference breakfasts, lunches and dinners);
 - the reasonable cost of overnight accommodation for stays outside the Sydney metropolitan region (refer clause 7.2 of this Policy);

4.3 The City will not meet the cost of travel expenses, additional accommodation expenses (in addition to the expenses incurred for the Councillor) and partner tours/activities for any spouses, partners or accompanying persons attending the Conference. These expenses are the responsibility of, and must be paid for personally by, individual Councillors.

4.4 Costs associated with the attendance of Councillor delegates at the Conference are not to be included within the annual expense limits applicable to Interstate and Intrastate Conferences in clauses 7.4 and 8.3 of this Policy.

5. Carer Expenses

Criteria

- 5.1 An annual limit of \$6,000 for each Councillor will apply to carer expenses.
- 5.2 A carer is a person who cares for a dependent child or another immediate family member, such as a family member with a disability.
- 5.3 Immediate family members include the carer's current or former spouse or domestic partner. Immediate family also includes a child, parent, grandparent or sibling of either the carer or the carer's spouse or domestic partner.
- 5.4 Aboriginal or Torres Strait Islanders who care for a family member related according to Aboriginal or Torres Strait Islander kinship rules are regarded as carers.

5.5 Expenses for alternative carer arrangements, including child care expenses and the care of elderly, disabled and/or sick immediate family members of Councillors, are payable when a Councillor attends:

- Council meetings, standing committee meetings, sub-committee meetings, inspections, formal briefing/[workshop](#) sessions and civic or ceremonial functions convened by the Lord Mayor or Council;
- meetings scheduled by Council or the Lord Mayor;
- meetings necessary for the Councillor to exercise a delegation given by Council or meetings arising from their official role as chairperson (or deputy chairperson) of a standing committee;
- meetings arising as a result of a Councillor being appointed by Council to an outside body or committee;
- constituent meetings
- a meeting, function or other official role as a representative of the Lord Mayor or Council;
- Councillor training, education, professional development approved under clause 20.5 of this Policy;
- preparation time for meetings of Council (up to 4 days per month)
- Local Government NSW Annual Conference; and
- functions where the payment of carer expenses has been approved by the Chief Executive Officer.

Fees

5.6 Carer expenses may consist of:

- child care centre fees;
- hourly fees;
- agency booking fees (if claimed); and
- reasonable travelling expenses (if claimed by the carer).

5.7 Fees are payable per hour (or part of an hour) subject to any minimum period which is part of the care provider's usual terms, to a maximum hourly rate approved by the Chief Executive Officer.

5.8 Travelling expenses cover the transport costs of the carer to and from the Councillor's residence or of the person to be cared for to and from the place of care.

5.9 Claims for reimbursement of carer expenses must be accompanied by a receipt from the care provider showing the date and time care was provided and details of the reason care was needed on each occasion.

6. Communications and Mobile Devices (\$5,000)

6.1 An annual limit of \$5,000 for each Councillor will apply to the provision of communications and mobile devices outside the Councillor's Town Hall office, and their ongoing usage/operating costs.

6.2 Communications and mobile devices to be provided by the City to each Councillor for the duration of their term of office may comprise any of the following:

- one mobile electronic communication device, e.g., i-Phone, with approved accessories, including monthly service fees;
- one mobile device such as an i-Pad (including protective case, keyboard and monthly service fees);
- one multi-function device capable of printing and scanning; and
- one photographic camera with relevant accessories.

6.3 If replacement or upgrade of any of those communications and mobile devices is required during a Councillor's term of office, these costs are included in the total annual expense limit in clause 6.1.

6.4 Councillors may seek reimbursement for applications on their mobile electronic communication devices that are directly related to their duties as a Councillor.

6.5 Mobile device use is to be in accordance with the City's Mobile Device Policy and Internet and Email Policies. Councillors will receive a copy of their monthly Mobile Summary Report and will be able to identify any personal call charges.

- 6.6 Where personal call charges exceed incidental private use, Councillors must advise the Chief Executive Officer in writing and, in accordance with clause 41.2 of this Policy, the Councillor will be invoiced for reimbursement to the City of the relevant amount.

7. Conferences and Civic Events Interstate (\$53,000)

- 7.1 The City will pay expenses, including registration fees, domestic travel, accommodation, meals and reasonable incidental expenses, associated with Councillors attending conferences, ~~or~~ seminars or civic events outside New South Wales (including the ACT), provided the Chief Executive Officer approves the Councillor's attendance. The conference, ~~or~~ seminar or civic event must be directly relevant to the functions of Council and/or benefit the community/local government area. The request for approval should include full details of the travel, including itinerary and costs, in accordance with clause 23.4 of this Policy.

The provisions of clause 23 of this Policy will apply to all transport arrangements associated with interstate conference attendance.

Overnight Accommodation

- 7.2 The City will pay reasonable costs of overnight accommodation for stays outside the Sydney metropolitan region. Expenses are payable for the nights of the conference, ~~or~~ seminar or civic event and the night before and after where necessary.

Accommodation is to be at the conference venue, where possible.

In all other cases, accommodation should be based on best value

available and proximity to the conference venue.

Preference will be given to accommodation venues providing Government Rates and to those who publicly disclose their environmental performance with third party certified sustainability ratings such as NABERS, EarthCheck, LEED, Green Star Performance, where available.

These costs are included in the total annual expense limit as identified in clause 7.4.

Meals

- 7.3 The City will pay for all meals for Councillors attending approved conferences, ~~or~~ seminars or civic events, where any of those meals are not provided as part of the conference or seminar fee. The City will also pay the reasonable cost of beverages accompanying a meal.

These costs are included in the total annual expense limit as identified in clause 7.4.

- 7.4 The annual limit for attending conferences, ~~or~~ seminars or civic events outside New South Wales (including the ACT) including registration, travel, accommodation and meal expenses, is \$53,000 for each Councillor. In addition to this annual expense limit, the standing authority in clause 23.5 of this Policy allows for:

- the attendance by Council's official delegates at the annual Local Government NSW Conference; and

- the attendance by the Lord Mayor or other Councillors at meetings interstate, including Canberra, explicitly for the discussion of issues related to the functions of the City of Sydney or agreements between Council and the Commonwealth, with such attendance to be explicitly approved by the Chief Executive Officer and the Lord Mayor, and in the case of the Lord Mayor, by the Chief Executive Officer and Executive Director, Legal and Governance.

8. Conferences and Civic Events Intradate (\$32,000)

- 8.1 The City will pay expenses including, but not limited to, registration fees, domestic travel, accommodation (for stays outside the Sydney metropolitan region), meals and reasonable incidental expenses associated with Councillors attending conferences, ~~or~~ seminars or civic events within New South Wales (excluding the ACT). The conference, ~~or~~ seminar or civic event must be directly relevant to the functions of Council and/or benefit the community/local government area.

The provisions of clause 23 of this Policy will apply to transport arrangements associated with intradate conference attendance.

- 8.2 Councillors may attend conferences, ~~and~~ seminars and civic events within New South Wales at the City's expense:
- without approval of the Chief Executive Officer where the all-inclusive cost of the Councillor's attendance at the conference, ~~or~~ seminar or civic event does not exceed \$500; or

- with the prior approval of the Chief Executive Officer where the all-inclusive cost of the Councillor's attendance at the conference, ~~or~~ seminar or civic event exceeds \$500.

- 8.3 The annual limit for attending conferences, ~~or~~ seminars or civic events within New South Wales (excluding the ACT) is \$32,000 for each Councillor. In addition to this annual expense limit, the standing authority of Council in clause 23.5 of this Policy allows for the attendance by Council's official delegates at the annual Local Government NSW Conference.

9. Council Concerts and Public Entertainment

- 9.1 Councillors will be offered tickets to events that the City sponsors where tickets are included in the sponsorship agreement.

10. Council Representation at Non-Council Functions and Other Events (\$42,000)

- 10.1 The annual limit for attending dinners, non-council functions, community and corporate or industry events where Councillor representation would be expected, such as award nights which are relevant to Council's interest is \$42,000 for each Councillor.

- 10.2 The approval of the Chief Executive Officer is required for attendance at dinners, non-council functions and community events where the cost exceeds \$500.

- 10.3 The City will pay the entry fee/ticket cost associated with the attendance of a Councillor at a dinner, non-council functions, community and

corporate or industry events relevant to Council's interest.

All arrangements for the giving of a ceremonial gift on behalf of the City are coordinated by Protocol.

10.4 The City will not pay for or reimburse to a Councillor costs associated with attendance at any political fundraising event, any donation to a political party or candidate's electoral fund or for some other private benefit.

Ceremonial gifts given by the City shall be:

- of a standard considered appropriate for the occasion;
- considered reasonable in terms of community expectations; and
- approved by a meeting of Council, where the value of a ceremonial gift will exceed \$1,000.

10.5 Likewise, no payment shall be made or reimbursed by the City for any component of a ticket that is additional to the service cost, such as a donation to a political party or candidate's electoral fund or any other private benefit.

Ceremonial gifts received by Councillors on behalf of the City

12.2 The provisions of the Code of Conduct and the Curatorial Policy of the Civic Collection will apply.

11. Expenses and Facilities for Councillors with Disabilities

11.1 For any Councillor with a disability, Council may resolve to provide reasonable additional facilities and expenses, in order to allow that Councillor to perform their functions of civic office.

Token gifts and benefits given by Councillors

12.3 In circumstances where it is appropriate for Councillors to give a gift or benefit, for example as a personal gesture of goodwill when receiving visitors, these gifts and benefits should be of token value as defined in the Code of Conduct.

12. Gifts and Benefits

12.1 A ceremonial gift is an official gift from one organisation to another, generally provided when conducting official business with delegates from another organisation or when formally representing the City at ceremonial and civic events. For example, when undertaking overseas travel approved by Council, hosting a visiting official delegation or attending ceremonial and civic events as a formal representative of the City (as approved by Council or the Lord Mayor).

12.4 In appropriate circumstances the Protocol Unit will provide suitable gifts of token value, ~~such as key rings, pens, ties, scarves, chocolates or flowers~~ to Councillors for issue to visitors.

Gifts and benefits received by (or offered to) Councillors

12.5 The provisions of the Code of Conduct will apply.

13. Insurance

- 13.1 In accordance with Section 382 of the Act, the City is insured against public liability and professional indemnity claims. Councillors are included as a named insured on these policies.
- 13.2 Insurance protection is only provided if a claim arises out of or in connection with the Councillor's performance of his or her civic duties, or exercise of his or her functions as a Councillor. All insurances are subject to any limitations or conditions set out in the policies of insurance.
- 13.3 Council shall pay the insurance policy excess in respect of any claim accepted by the City's insurers, whether defended or not.
- 13.4 In addition to public liability and professional indemnity, the City also provides the following insurances:
- Councillors and Officers Liability Insurance;
 - Personal Accident Insurance, (accompanying partners are also covered); and
 - International and Domestic Travel Insurance.

14. Legal Costs

- 14.1 In the particular circumstances outlined below, the City may indemnify or reimburse the reasonable legal expenses of a Councillor for:
- defending an action arising from the performance in good faith of a function under the Act (section 731 refers); or
 - defending an action in defamation provided that the outcome of the legal proceedings if favourable to

the Councillor and the statements complained of were made in good faith in the course of exercising a function under the Act; or

- an inquiry, investigation or hearing into a Councillor's conduct by an appropriate investigative or review body, including:
 - NSW Civil and Administrative Tribunal;
 - Independent Commission Against Corruption;
 - Office of the NSW Ombudsman;
 - Office of Local Government;
 - NSW Police Force;
 - Director of Public Prosecutions; and
 - Council's Conduct Review Committee/Reviewer - only where a matter has been referred by the Chief Executive Officer in accordance with the Code of Conduct;
 - but provided that the subject of the inquiry, investigation or hearing arises from the performance of a Councillor's functions under the Act, and the matter has proceeded to a formal investigation or review. In relation to a conduct complaint, reasonable legal expenses should only be reimbursed where a formal investigation has been commenced by the Office of Local Government. Reasonable legal expenses can only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the Councillor.
- 14.2 Where possible, prior approval is to be sought and gained from the Chief Executive Officer before legal expenses are incurred.

- 14.3 The City will not meet legal expenses in the following circumstances:
- any legal proceedings initiated by a Councillor;
 - a Councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation; and
 - any legal proceedings that do not involve a Councillor performing their role as a Councillor.

15. Newspapers

- 15.1 Each Councillor is entitled to digital subscriptions to two daily newspapers and/or delivery of those same newspapers to their home or Town Hall office.

16. Civic Communication Tools (\$1,500)

- 16.1 Each Councillor will be entitled to post, in City supplied envelopes, 200 standard mail items or equivalent per month cumulative within each financial year, up to a value of \$1,500 per year.
- 16.2 In recognition of the additional authorities and functions exercised by the Lord Mayor as detailed in clause 35.1, the Lord Mayor will be entitled to postage up to the value of \$3,000 per year.

Christmas / Festive Season Cards

- 16.3 Councillors may also be supplied with up to 600 Christmas Cards, or other cards specific to similar cultural festivals, and envelopes of standard size each year. Corporate Christmas Cards will also be made available in electronic format and interested Councillors are encouraged to use e-Christmas

Cards. For those Councillors who choose a paper based card format, the cost of posting the 600 cards is included in the annual expense limit for postage.

- 16.4 In recognition of the additional authorities and functions exercised by the Lord Mayor as detailed in clause 35.1, the Lord Mayor will be entitled to 1,200 cards under this Policy. Where the Lord Mayor chooses a paper based card format, the cost of posting the 1,200 cards is included in the annual expense limit for postage.

Electronic Civic Communications

- 16.5 Councillors are entitled to access the City provisioned email marketing platform to manage their electronic civic communications. Communications will be the responsibility of the Councillor and the cost of this will be attributed to the Civic Communication Tools cap.

17. Publications

- 17.1 Councillors are entitled to be reasonably supplied with journals, magazines and other publications of their choice relevant to their civic duties.
- 17.2 Councillors are entitled to one copy, for their own use, of any historical or other books published by or for the City.

18. Spouse / Partner / Accompanying Person (\$1,0600)

- 18.1 The cost of a spouse, partner or accompanying person attending official Council functions of a formal and ceremonial nature is appropriate when accompanying a Councillor:
- within the local government area;

- outside the local government area but within the State when representing the Lord Mayor; and
- at the annual conference of Local Government NSW with costs limited to the cost of registration and official conference dinners as per clause 4.2 of this Policy.

18.2 Official Council functions include, but are not limited to, Australia Day award ceremonies, citizenship ceremonies, civic receptions and charitable functions formally supported by Council.

18.3 The payment of expenses, up to an annual limit of \$1,0600 for each Councillor, for spouses, partners or accompanying persons is appropriate for attendance at community and charity functions held within or contributing to the local government area.

18.4 The payment of expenses for spouses, partners or accompanying persons attending appropriate functions shall be limited specifically to the ticket and meal(s). Other expenses, such as grooming, special clothing and transport, will not be reimbursed.

19. Table Purchasing for Charity and Fundraising Events

19.1 Under the Support for Charities Policy, the Chief Executive Officer is authorised to make the decision on the purchase of tables at fundraising or charity events, in consultation with the Lord Mayor.

19.2 The following guidelines apply when determining whether a table should be purchased for a charity or fundraising event.

Priority will be given to purchasing tables for events / functions which:

- contribute toward a coordinated approach to service delivery and the development of responses to emerging social, cultural environmental or economic issues
- strengthen formal and informal support networks, reduce isolation and increase community participation and opportunities
- increase access to the achievement of basic rights for people with the greatest need
- promote a balanced debate aimed at achieving social harmony
- raise funds for a cause or organisation which is in keeping with the City's priorities and ethics
- raise funds for a cause or organisation experiencing exceptional circumstances involving genuine hardship including domestic or international humanitarian crises
- are reputable and not-for-profit
- provide a benefit or service to the people of the City of Sydney or support an issue which falls within the City's role as a capital city council or facilitate City of Sydney residents and visitors to support efforts to respond to a domestic or international humanitarian crises
- are not for political purposes

- are not for overt activities that could be perceived as divisive within the community.

will be separately met from the corporate budget.

- 19.3 Ticket costs or other entry fees associated with the attendance of Councillors at charity and fundraising events are included within the annual expense limit applicable to dinners, non-Council functions and community events in clause 10.1 of this Policy.

- 20.4 Council will include in its annual budget an allocation of \$50,000 per year (average of \$5,000 per Councillor) for training and development courses, education and professional body membership expenses that are directly related to Councillors' civic functions and responsibilities. Council may also agree to allocate additional funding in specific cases where it decides there is a benefit to Council from Councillors' attendance or membership. The budget allocation is for all Councillors and the Chief Executive Officer will ensure that access to training and education courses and expenses relating to professional body membership is distributed equitably.

20. Training, Educational and Professional Body Membership Expenses (\$50,000 total for all Councillors)

- 20.1 The City supports the training, education and ongoing professional development of Councillors to ensure that members of Council's governing body are provided with the knowledge and skills required to undertake their roles and responsibilities effectively.

- 20.2 The City delivers a comprehensive Councillor Induction Program to assist new Councillors in understanding and performing their role and to build on the existing knowledge and skills of returning Councillors. Following a general Council election, the Councillor Induction Program will include additional training, such as in the Code of Conduct and meeting practice and procedure. New and returning Councillors are also encouraged to attend any post election workshops/seminars conducted by the Office of Local Government.

- 20.3 Costs associated with the Councillor Induction Program and other related training, such as Code of Conduct and meeting practice and procedure

- 20.5 Approval to attend training and education courses and professional body membership is subject to a written request to the Chief Executive Officer outlining the details of the proposed training or education or professional body membership, the benefits for Council and how it relates to the Councillor's civic functions and responsibilities.

- 20.520.6 Councillors may undertake a company directors course, with the costs of the course and any ongoing professional body membership costs to be met by the City. These costs are excluded from the total annual expense limit as identified in clause 20.4.

21. Travel

General Provisions

21.1 In carrying out the functions of civic office, the Lord Mayor, Deputy Lord Mayor and Councillors may be required to undertake local, interstate and international travel on behalf of the City.

21.2 Overseas travel must be approved by Council in accordance with clause 24.1 of this Policy.

21.3 All travel arrangements (excluding local travel) must be made through the Office of the Chief Executive Officer. Travel arrangements (excluding local travel) must not be made by Councillors unless prior approval has been provided in accordance with this Policy.

21.4 All travel by Councillors should be undertaken by utilising the most direct route and the most practicable and economical mode of transport subject to any personal medical considerations.

21.5 Councillors are responsible for ensuring that they maintain all supporting documentation for travel expenses, as required under this Policy.

21.6 Councillors undertaking private travel, in conjunction with travel approved and funded in accordance with this Policy, must ensure that all costs incurred for private travel are clearly delineated from City funded travel arrangements.

21.7 Councillors are not to seek, or accept loyalty or frequent flyer points from organisations such as airlines, hire care companies or hotels in respect of transport and accommodation costs associated

with travel approved in accordance with this Policy.

22. Travel – Local (\$6,000)

22.1 Councillors may use industry standard vouchers/cards for taxi travel for journeys in the Sydney metropolitan region to assist them to carry out their civic duties.

22.2 Upon being issued with such a voucher/card, Councillors must sign a form agreeing to comply with the conditions of use. The City will only meet the cost of taxi journeys undertaken by Councillors for Council business purposes.

22.3 At the end of each relevant billing period, each Councillor will receive a statement detailing taxi journeys undertaken during that period. Councillors are required to check the statement, complete a “Taxi Usage” form by providing the details of, and reasons for, each journey, identify any non-Council business related journey, and submit the completed form, and matching receipt for each journey detailed on the statement, to Secretariat within two months of the statement date.

22.4 These statements will be checked by Secretariat and, in accordance with clause 41.2 of this Policy, an invoice will be issued for reimbursement to the City of any non-Council business related journey identified by the Councillor.

22.5 Councillors may seek reimbursement of Opal Card costs for journeys undertaken in carrying out their functions of civic office. Claims for reimbursement of these expenses must be accompanied by

a Councillor's Opal Card statement highlighting relevant journeys undertaken for Council business purposes.

22.6 When available, City vehicles and drivers may be utilised by Councillors for journeys in the Sydney metropolitan region to assist them to carry out their role. Requests should be directed to the Civic Functions

~~Manager~~**Coordinator**. The costs will be allocated at an hourly rate and will vary depending on whether overtime is applicable. Costs associated with driving Councillors when they are representing the Lord Mayor will not be included in the annual expense limit for local transport.

22.7 Councillors using their private vehicles to travel to and from meetings of Council and Committees of Council, and to carry out their other Council functions, may be reimbursed according to the rates prescribed by the Australian Tax Office. All references to private vehicles also include car share and rental vehicle use.

22.8 A record of private vehicle use must be maintained by the Councillor and submitted on a monthly basis using the log book provided. The record shall contain details of the Council business for which the travel was undertaken, dates, destinations, number of kilometres and any tolls, for which receipts must be provided.

22.9 Car parking fees incurred while conducting Council business will be reimbursed on the basis of original receipts and relevant details regarding the purpose, date and time of the meeting or function.

22.10 The driver of the vehicle is personally responsible for all traffic or parking fines incurred while travelling in private or City vehicles on Council business.

22.11 Councillors are able to claim reimbursement for any bicycle hire costs used for transport while on Council business. Secure storage space is provided for Councillors in the car park of Town Hall House, 456 Kent Street, Sydney.

22.12 Councillors are able to claim reimbursement for the use of other forms of local transport as approved by the Chief Executive Officer, or delegate, from time-to-time.

22.13 The annual limit for all local transport expenses indicated above is \$6,000 for each Councillor.

23. Travel – Intrastate and Interstate

23.1 The City will pay reasonable expenses for domestic travel related to carrying out the functions of civic office.

23.2 Councillors may choose the mode of transport which is most appropriate to the circumstances, subject to overall economy and convenience.

23.3 Airline tickets are not transferable and cannot be used for defraying or offsetting any other costs, including the costs of other persons accompanying the Councillor.

23.4 Prior approval is required from the Chief Executive Officer for travel outside the Sydney metropolitan area and interstate. The application

for approval should include full details of the travel, including itinerary, costs and reasons for the travel.

23.5 In addition to the provisions of clauses 23.1 to 23.4, the following standing authorities are deemed to exist as at the date of this Policy:

- the attendance by Council’s official delegates at the annual Local Government NSW Conference; and
- the attendance by Councillors at meetings interstate, including Canberra, explicitly for the discussion of issues related to the functions of the City of Sydney or agreements between Council and the Commonwealth, such attendance to be explicitly approved by the Chief Executive Officer in consultation with the Lord Mayor in each case. In the case of the Lord Mayor, attendance will be approved by the Chief Executive Officer and the Executive Director, Legal and Governance.

Costs associated with the standing authorities referred to above are not to be included within the annual expense limits detailed in clauses 7.4 and 8.3.

Class of Air Travel

23.6 Unless otherwise specified in a Resolution of Council, the class of air travel to be used is to be:

- by a Councillor for continuous journeys of less than or equal to two hours duration, economy class;
- by a Councillor for continuous journeys exceeding two hours, business class; and
- by the Lord Mayor, and other Councillors accompanying the Lord Mayor, business class.

23.7 A journey which is interrupted by an overnight stop-over is not a continuous journey.

23.8 In the case of travel via a non-direct route, travel expenses are payable for the amount which would have been incurred if the most direct route had been available and followed at the same class of travel as was actually used. A claim for expenses must not exceed the amount actually paid.

Use of Private Vehicle

23.9 Where a Councillor uses their private vehicle, including car share and rental vehicle, to attend an approved conference or seminar outside the Sydney metropolitan region, the total claim for use of the vehicle must not exceed the cost of air travel at the specified class, plus the taxi fares to and from the airports. Reimbursement rates and procedures are the same as those detailed in clause 22.7.

Train Travel

23.10 Train travel may be first class, including sleeping berths where necessary.

Transfers

23.11 Taxis, coaches and other transfer transport expenses, including at the destination point, may be reimbursed for approved travel. (See clause 7.4 for the annual limit on

expenses for attending conferences outside New South Wales (including the ACT) and clause 8.3 for the annual limit on expenses for attending conferences within New South Wales (excluding the ACT).

24.5 For overseas meetings, conferences or seminars, a report or relevant material must be prepared for circulation to the Council and review by the public within six months of the travel undertaken.

24. Travel – Overseas

24.1 Detailed proposals for overseas travel, including the benefits to Council, a list of associated costs and anticipated expenses must be included in the Committee or Council business papers by way of a report and approved by a meeting of Council prior to a Councillor undertaking a trip. Overseas travel is to be approved on an individual trip basis.

24.2 Airline tickets are not transferable and cannot be used for defraying or offsetting any other costs, including the costs of other persons accompanying the Councillor.

Class of Air Travel

24.3 Unless otherwise specified in a Resolution of Council, the class of international air travel to be used by the Lord Mayor and all Councillors is to be business class.

24.4 In the case of travel via a non-direct route, travel expenses are payable for the amount which would have been incurred if the most direct route had been taken.

25. Additional Expenses for the Lord Mayor

Attendance at Conferences, Seminars and Meetings

25.1 The Lord Mayor may attend meetings, with the City meeting the cost of travel, accommodation, meals and reasonable incidentals, as follows:

- Council of Capital City Lord Mayors (while Council remains a CCCLM member);
- Australian Local Government Association;
- Local Government NSW;
- meetings interstate and intrastate with representatives of the Commonwealth Government, State Governments, capital city local governments and regional local governments, or other bodies on city related issues; and
- other meetings relevant to the functions of the City or the Lord Mayor’s functions of office approved from time to time by Council.

Other Expenses

Reports on Attendance

~~25.2 The Lord Mayor is entitled to ISD telephone access or the equivalent.~~

~~**26. Additional Expenses for the Deputy Lord Mayor**~~

~~26.1 The Deputy Lord Mayor is entitled to ISD telephone access or the equivalent.~~

Provision of Facilities

27. Introduction

- 27.1 Facilities may be defined as “equipment and services that are provided by councils to Councillors to enable them to perform their civic functions with relative ease and at a standard appropriate to their professional role as Councillors”.
- 27.2 Unless stated otherwise, the facilities, equipment, administrative and other support services detailed in Part 4 of this Policy are to be made available to all Councillors on a uniform basis.
- 27.3 Specific additional facilities, equipment, administrative and other support services for the Lord Mayor and Deputy Lord Mayor are detailed in clauses 35 and 36.
- 27.4 As detailed in Part 2 of this Policy, Councillors must only use Council facilities, equipment and services in accordance with the Code of Conduct.

28. Administrative and Other Support Services

- 28.1 Each Councillor will be provided with administrative and other support services equivalent to ~~1.5~~ full time staff.
- 28.2 Any hours worked in excess of this entitlement will only be paid as a result of these staff attending Council meetings, standing committee meetings and sub-committee meetings after 5.00pm or as approved in advance by the ~~Executive Manager, Office of the~~

~~CEO-Councillor and Civic Relations Coordinator~~

- 28.3 Councillor support staff will be recruited by the Chief Executive Officer, in consultation with the relevant Councillor(s).
- 28.4 A generic position description for these positions is to be approved by the Chief Executive Officer.
- 28.5 Councillor support staff will be provided with a workstation or equivalent, a ~~personal~~ computer connected to City's network, land line phone and mobile device.

29. Building Access and Parking

- 29.1 Each Councillor will receive one security card and one key fob, allowing them 24 hour access to appropriate areas within the Sydney Town Hall and Town Hall House.
- 29.2 Each Councillor is entitled to the use of one parking space accessible on a 24 hour basis in the Town Hall House car park.

30. Name Badge

- 30.1 Each Councillor is entitled to two standard name badges.

31. Office Accommodation and Equipment

- 31.1 Councillors will be provided with office accommodation. The location of the office, the standard of accommodation, and expenditure on equipment, furniture and fit out are to be approved by the Chief Executive Officer. The standard will be such as to enable Councillors to satisfactorily carry out their civic duties.

~~31.2~~ Councillors will be entitled to standard equipment set up (generally comprising of a computer and mobile phone) ~~a personal computer in their office. In lieu of a personal computer, Councillors may choose to have a lap-top computer for use at their home, non-Council workplace and office.~~

31.2

31.3 Computer- and network usage is subject to City policy (including Internet and Email Policies) and is to be used only in the execution of the Councillors' civic duties.

31.4 Software required by Councillors in the exercise of their civic duties will be provided by the City as approved by the Chief Executive Officer.

31.5 ~~Computer~~ Training in the use of ~~the computer~~ systems provided by the City will be available at the City's expense.

31.6 Other equipment available in each Councillors' office will include the following:

- access to a multi-function device for printing, scanning, copying and faxing;
- paper shredder;
- a multi-function headset capable of integration with a desk phone, mobile phone and internet phone; and
- day-to-day stationery and other minor office equipment including any relevant personal protective equipment (PPE).

31.7 Maintenance, telephone line rental, fax and call costs for telephones in Councillors' offices ~~(including STD calls on Council business only)~~ will

be at the City's expense. Town Hall office phones will be connected to voicemail.

32. Council Related Meeting Costs (\$106,000)

32.1 Food and beverages will be available for Council meetings, standing committee and sub-committee meetings, Central Sydney Planning Committee meetings, other official Council Committees, Councillor briefings, approved meetings or engagements, and official Council functions as approved by the Chief Executive Officer in consultation with the Lord Mayor.

32.2 Councillors will be reimbursed reasonable out-of pocket expenses incurred whilst entertaining visiting dignitaries on behalf of Council. The Chief Executive Officer in consultation with the Lord Mayor must give prior approval to these arrangements.

32.3 Food and beverages associated with conducting other Council and civic business related meetings in Sydney Town Hall or Town Hall House can be arranged for Councillors through Civic Functions and/or other providers as nominated by the Chief Executive Officer, or delegate.

32.4 Councillors' office refrigerators may be stocked with beverages for the use of Councillors and their guests in relation to Council and civic business from a standard range of stock items available. Requests should be directed to the Civic Functions ~~Manager/Coordinator on a beverage use order form and~~ the costs involved will be allocated to the Councillor concerned.

32.5 Further meeting requirements including costs for catering, audio visual equipment or personnel can be arranged for Councillors through Civic Functions with the approval of the CEO.

32.6 The annual combined limit for clauses 32.2 - 32.5 is \$106,000 for each Councillor.

33. Room Use

Sydney Town Hall

33.1 The VIP Boardroom, Finance Room, Treasury Room and Council Chamber may be booked at no cost for meetings in the exercise of the Councillor's civic duty.

33.2 Bookings may be made through the ~~Civic Functions Manager~~Councillor and Civic Relations Coordinator.

Other Venues

33.3 Meeting rooms in other City of Sydney venues, such as Town Halls, Town Hall House and community centres, may be booked at no cost for meetings of up to approximately 100 people, subject to availability, in the exercise of the Councillor's civic duty.

~~33.4~~ Booking requests are to be made through the Councillor and Civic Relations Coordinator. ~~Executive Manager, Office of the CEO~~ who will then seek the approval of the Chief Executive Officer, ~~in consultation with the Lord Mayor~~.

33.4

33.5 All Councillors are to be invited to meetings held in other City venues.

Conditions of Usage

33.6 Room or venue bookings which may be perceived to be of a political nature or not related to the Councillor's civic duties will not be approved for free use. Where applicable, room or venue usage in those circumstances would be charged at the current community rate.

33.7 Costs for catering, audio visual equipment, personnel or other meeting requirements are to be met by the Councillor under clause 32.

34. Stationery

34.1 Councillors will be supplied with corporate standard Councillors' letterhead, note paper, envelopes and business cards. The letterhead will display one Councillor's name only. Groups and affiliations are not to be displayed on Councillors' letterhead.

34.2 Council stationery is not to be converted or modified in any way and may only be used for carrying out the functions of civic office.

35. Additional Facilities for the Lord Mayor

35.1 This Policy recognises the additional authorities and functions exercised by the Lord Mayor, in accordance with the Act (as amended) and Council's adopted delegations to the Lord Mayor, which include:

- to lead the governing body of Council;
- to be a leader in the community;

- to advance community cohesion and promote civic awareness,
- to be the principal spokesperson on Council policy;
- to promote partnerships between Council and key stakeholders;
- to represent the Council on regional organisations and at inter-governmental forums at regional, State and Commonwealth level; and
- the undertaking of civic and ceremonial functions of the mayoral office; and
- other functions as authorised by Council in accordance with its delegations to the Lord Mayor.

35.2 Council will provide the Lord Mayor with office accommodation and the services of a business unit (the Office of the Lord Mayor) to support the Lord Mayor in carrying out these authorities and functions.

Office of the Lord Mayor (Business Unit)

35.3 The Office of the Lord Mayor will provide support and related services to the Lord Mayor for the purposes of:

- policy development and advocacy;
- strategic planning and research;
- communications and media;
- community, government and industry liaison;
- exercise of civic and ceremonial functions; and
- administrative support.

35.4 The Office of the Lord Mayor is not to be used to provide services or facilities for any other purpose.

35.5 Council will allocate and approve an annual budget for the Office of the Lord Mayor to provide for required staff resources, facilities and other expenses associated with its day-to-day operation.

35.6 The annual budget for the Office of the Lord Mayor will be published on the City’s website.

35.7 Under Council’s adopted delegations, the Lord Mayor has authority to determine the structure of the Office of the Lord Mayor in consultation with the Chief Executive Officer, subject to the costs being within the annual budget allocated and provided the staffing of the unit does not exceed the equivalent of 22 full time staff.

35.8 Resources utilised and expenditure incurred within the Office of the Lord Mayor must be in accordance with relevant financial delegations and in consultation with the Chief Executive Officer.

35.9 For financial management purposes, the Office of the Lord Mayor operates as a separate cost centre.

35.10 Expenses reimbursed and facilities made available to the Lord Mayor in accordance with the other provisions of this Policy will be funded from the overall budget allocation for the provision of expenses and facilities to councillors and be subject to the limits specified in this policy.

Other Facilities

35.11A dedicated vehicle including a fuel card and driver for local and intrastate journeys (and the ACT) will be made available to the Lord

Mayor to assist them to carry out the duties of civic office.

35.12 The vehicle and driver are to be available for other duties when not utilised by the Lord Mayor. The Lord Mayor's vehicle is maintained and replaced in accordance with the City of Sydney Motor Vehicle Policy.

35.13 In carrying out the functions of civic office, the Lord Mayor may use rooms in Sydney Town Hall including the Reception Room and the Lady Mayoress' Room.

35.14 The Lord Mayor has access to Lord Mayoral Chains of office and robes for official, civic and ceremonial use.

36. Additional Facilities for the Deputy Lord Mayor

36.1 The Deputy Lord Mayor is entitled to administrative support services equivalent to 2.5 ~~two~~ full time staff.

36.2 A non-dedicated vehicle and driver is available to assist them to carry out the duties of Deputy Lord Mayor for journeys in the Sydney metropolitan region. The vehicle and driver may only be used where the purpose of the transport is directly related to the functions of the Council. Such vehicle and driver will be available for other duties when not utilised by the Deputy Lord Mayor.

36.3 In the event a new Deputy Lord Mayor is elected, both the incoming and outgoing Deputy Lord Mayor shall be entitled to new corporate letterhead, notepaper and business cards.

Payment and Reimbursement

37. Payments Generally

37.1 Expenses and facilities provided for in this Policy can be paid by:

- the City directly;
- reimbursement; or
- advance payment (in exceptional circumstances eg. overseas travel).

37.2 All payments by the City under this Policy will be made in accordance with existing City financial delegations, policies and procedures applicable to the particular payment method used (i.e., Purchase Order, EFT, corporate credit card, payment requests and petty cash).

37.3 The payment method used for particular expenses and facilities may vary depending on the cost involved in the particular expense or facility, payment deadline, staff availability and expediency. If credit card is the only available or most suitable payment method in a particular circumstance, relevant surcharges and/or processing fees may apply.

38. Assessment and Approval of Payments and Reimbursements

38.1 Claims for payment or reimbursement of expenses and the provision of facilities under this Policy will be assessed/approved by at least two of the following:

- the Chief Executive Officer (or the Chief Executive Officer's nominated delegate) – claim assessment and approval where specifically required under a clause of this Policy; or

- ~~Executive~~ Manager, Office of the CEO (claim assessment and approval within financial delegations and where expenses claimed are within an annual expense or other limit in the Policy); or

- ~~Council Business Coordinator~~ Councillor and Civic Relations Coordinator (claim assessment and approval within financial delegations and where expenses claimed are within an annual expense or other limit in the Policy); or

- Committee Secretary (claim assessment for compliance with Policy/annual limits only). If a claim is approved, the City will make the payment directly to the relevant suppliers/service providers or reimburse the Councillor/other claimant through Accounts Payable.

38.2 If a claim is refused, the City will inform the Councillor/other claimant that the claim has been refused and the reasoning.

38.3 Claims for payment or reimbursement of expenses which are approved in accordance with the provisions of clauses 38.1 are subject to the oversight and

accountability requirements outlined in clauses 44.2 and 44.3.

39. Process for Direct Payment and Reimbursement of Expenses

- 39.1 Whenever possible and practicable, the City will directly pay for Councillors' expenses and provide facilities, equipment and other resources up to the relevant annual expense limit or standard specified in this Policy. In other cases, Councillors may claim for payment or reimbursement of expenses or facilities as outlined below.
- 39.2 If sought by a Councillor, the City will pay or reimburse expenses incurred or to be incurred by a Councillor in carrying out the functions of civic office. Claims for payment or reimbursement of expenses by the City must be made using the appropriate form and provide sufficient supporting information to allow assessment of the claim.
- 39.3 Where direct payment by the City of an expense is sought by a Councillor, pre-approval under clause 38.1 of this Policy must be obtained prior to the expense being incurred.
- 39.4 Councillors are responsible for providing original receipts (with GST marked where applicable) and completing any other required documentation (e.g., private motor vehicle log book, Opal card statement reconciliation) in support of claims for payment or reimbursement of an expense by the City under this Policy.

- 39.5 Unless otherwise stated in this Policy, claims for reimbursement of expenses incurred by a Councillor must be lodged as soon as practicable (generally within two months of the date of the cost being incurred, or issue date of a periodic statement or billing summary detailing the expenditure incurred by the Councillor).
- 39.6 If a claim is lodged after the time period provided in clause 39.5, it may be refused. Requests for reimbursement outside of this time limit may be accepted in exceptional circumstances, subject to the approval of the Chief Executive Officer or delegate.

40. Payment in Advance

- 40.1 Councillors seeking payment in advance for the cost of any expenses provided for in this Policy that they anticipate will be incurred in the course of undertaking their civic duties must provide sufficient supporting information to allow assessment of the request.
- 40.2 If a Councillor receives an advance payment from the City, the Councillor must, as soon as practicable (generally within one month of receiving such a payment), provide to the City:
- a full reconciliation of all expenses, including receipts; and
 - a reimbursement of any amount of the cash advance that was not expended in the course of undertaking their civic duties.

41. Reimbursement to the City

41.1 For expenses that are later billed directly to the City, such as mobile phones/device and taxi vouchers/cards, Councillors are required to review the relevant bill, confirm those expenses that were incurred in carrying out their Council duties and declare any private usage. For the purposes of clause 41.2 of this Policy, Councillors will be invoiced and must reimburse the City for:

- any personal mobile phone call costs which exceeds incidental private use; and
- the full cost of any taxi journeys undertaken for private purposes (as determined through the reconciliation mechanism/process in clause 22.2 of this Policy).

41.2 If the City has incurred any other expense on behalf of a Councillor that exceeds an annual expense limit as detailed in this Policy, or exceeds reasonable incidental private use (as declared by the Councillor in writing or determined by the Chief Executive Officer or their delegate):

- the City will invoice the Councillor for the amount by which the annual expense limit for a category has been exceeded, plus GST, for the actual costs incurred by the Councillor for private benefits (where these can be ascertained), or at market value; and
- the Councillor will reimburse the City for that expense as per the invoice amount and payment terms.

42. Dispute Resolution Procedure

42.1 In the event of a dispute regarding the reimbursement of expenses or the provision of facilities under this Policy, the Lord Mayor or a Councillor may, by written request to the Chief Executive Officer, request the review and determination of the disputed matter by the Chief Executive Officer and the Executive Director, Legal and Governance.

42.2 If any matter remains in dispute, or the review parties (as detailed above) are unable to determine the matter, the disputed matter may be referred to a meeting of the Audit, Risk and Compliance Committee (comprised of the independent external members of the committee only) for determination.

Accountability and Transparency

43. Administrative Oversight

43.1 The Office of the Chief Executive Officer is responsible for the oversight and ongoing administration of the Policy, including, where necessary, the establishment of subsidiary practices and procedures intended to ensure high standards of probity are maintained.

44. Budget Oversight and Financial Accountability

44.1 Cost information for expenses incurred by Councillors and services and facilities provided to Councillors is generated from business units across the City.

44.2 The Chief Finance Office maintains the necessary accounting systems that ensure compliance with the requirements of this Policy and is responsible for ensuring the correct categorisation and charging of approved expenditure.

44.3 The primary internal controls that apply to the provisions of this Policy are:

- hierarchical approval requirements for all claims for expense reimbursement and the provision of facilities (operating in accordance with relevant financial delegations issued to City staff);
- monthly management reporting for budget and expenditure review and verification;

- regular capped expenditure reporting to all Councillors for secondary review and verification purposes;
- periodic expenses and facilities compliance review by way of internal audit; and
- annual operating budget development and approval processes.

45. Statutory Reporting Requirements

45.1 Under the Act and Regulation, the City is required to include specific information in its Annual Report about the payment of expenses and facilities to councillors in relation to their civic functions.

45.2 A statement of the total amount expended on the provision of facilities, and the total cost of particular categories of expenses and facilities as detailed in section 217 of the Regulation, are included in the City's Annual Report. The categories reported are as follows:

General

- the total cost of expenses and the provision of facilities for the Lord Mayor and Councillors;

Provision of facilities

- the cost of the provision of dedicated office equipment allocated to councillors on a personal basis such as ~~laptop~~ computers, mobile phones, telephones and facsimile machines and internet installed in the councillors' homes (including line rental and internet access). This item does not include the costs of using this equipment, such as calls;

Expenses

- the cost of phone calls including mobiles, home located landlines, facsimile and internet services;
- spouse, partner or accompanying person expenses;
- conference and seminar expenses;
- training and skill development expenses;
- interstate travel expenses (including subsistence and out-of-pocket expenses);
- overseas travel expenses (including subsistence and out-of-pocket expenses); and
- care and other related expenses (of dependants to enable a councillor to undertake their civic functions).

46. Additional Reporting of Expenses and Facilities

- 46.1 In addition to the statutory reporting requirements, the City reports the total cost of expenses and the provision of facilities for the Office of the Lord Mayor by way of the City's Integrated Planning and Reporting program and quarterly financial performance reporting.

47. Online Reporting

- 47.1 Council has resolved that expenditure incurred in accordance with this Policy will be published on the City's website quarterly.

48. Availability of the Policy

- 48.1 In accordance with the Government Information (Public Access) Act 2008, this Policy is to be made publicly available, free of charge, on the City of Sydney website as part of Council's register of open access information and policy register.

49. Policy Review

- 49.1 Council is required to review this Policy within the first 12 months of each term of office.

50. Relevant State Legislation and Guidelines

- Local Government Act, 1993
- Local Government (General) Regulation 2021
- Guidelines for the payment of expenses and provision of facilities for Mayors and Councillors in NSW - October 2009 (issued in accordance with section 23A of the Act)
- Circular 10/26 Misuse of council resources
- Independent Commission Against Corruption (ICAC) publication, No excuse for misuse, preventing the misuse of council resources - Guidelines 2 (November 2002).

51. Relevant City policy documents

- City of Sydney Code of Conduct
- Internet and Email Policies
- Petty Cash Policy
- Mobile Device Policy
- Motor Vehicle Policy

52. Policy Control Statement

Authority

Resolution of Council dated 21 November 2022

Review Date

This policy is to be reviewed within 12 months of any Council election.

File reference

2022/540990

Owner

Office of the Chief Executive Officer

This Policy supersedes any previous policies concerning the payment of expenses and provision of facilities to Councillors.