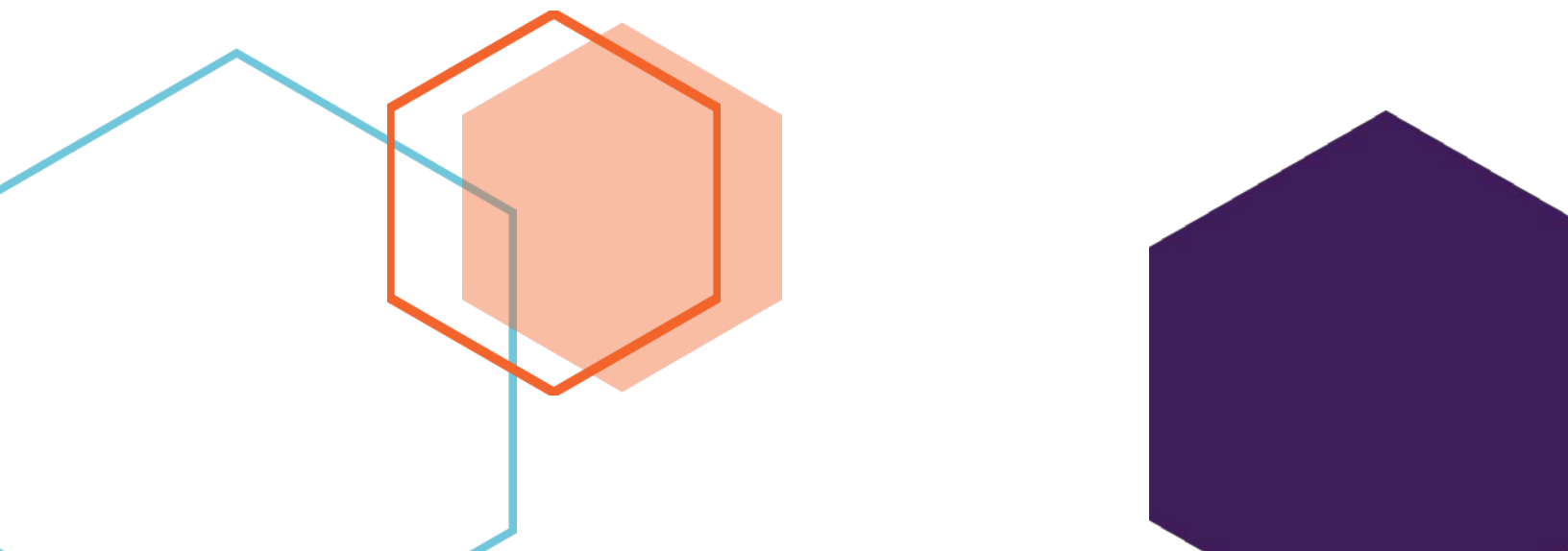




CODE OF CONDUCT





Contents

PART 1	4
INTRODUCTION	4
PART 2	5
PURPOSE OF THE CODE OF CONDUCT	5
PART 3	6
GENERAL CONDUCT OBLIGATIONS	6
General Conduct.....	6
Fairness and equity.....	6
Harassment and discrimination.....	7
Bullying	7
Work Health and safety	8
Land use planning, development assessment and other regulatory functions	9
Binding caucus votes	9
Obligations in relation to meetings	9
PART 4	11
CONFLICT OF INTERESTS.....	11
What is a pecuniary interest?.....	11
What interests do not have to be disclosed.....	12
What disclosures must be made by council staff other than designated persons?	14
What disclosures must be made by council staff other than designated persons?	15
What disclosures must be made by council advisors.....	15
What disclosures must be made by a council committee member.....	15
What disclosures must be made by a councillor?	15
Disclosure of interests in written returns.....	16
Disclosure of Pecuniary interests at meetings	16
What are non-pecuniary interests?.....	18
Managing non-pecuniary conflict of interests	19
Reportable political donations	20
Loss of quorum as a result of compliance with this Part	21
Other business or employment.....	22
Personal dealings with the JO.....	23



PART 5	24
PERSONAL BENEFIT	24
Gifts and benefits	24
Token gifts and benefits	25
Gifts and benefits of value.....	25
How are offers of gifts and benefits to be dealt with?.....	25
Improper and undue influence.....	26
PART 6	27
RELATIONSHIP BETWEEN BOARD OFFICIALS.....	27
Obligations of Board Members	27
Obligations of staff	27
Obligations during meetings	28
Inappropriate interactions	28
PART 7	30
ACCESS TO INFORMATION AND JOINT ORGANISATION RESOURCES	30
Board Member and administrator access to information.....	30
Board Members and administrators to properly examine and consider information.....	30
Refusal of access to documents	30
Use of certain Joint Organisation information	31
Use and security of confidential information.....	31
Personal information.....	32
Use of Joint Organisation resources.....	32
Internet access and use of social media.....	33
Council record keeping.....	33
Councillor access to council buildings	34
PART 8	35
MAINTAINING THE INTEGRITY OF THIS CODE.....	35
Complaints made for an improper purpose.....	35
Detrimental action.....	36
Compliance with requirements under this code.....	36
Disclosure of information about the consideration of a matter under this code.....	36
Complaints alleging a breach of this part.....	37



PART 9	38
DEFINITIONS	38
SCHEDULE 1 – DISCLOSURES OF INTEREST AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER	
CLAUSE 4.21	40
PART 1: PRELIMINARY	40
Definitions	40
Matters relating to the interests that must be included in returns	42
PART 2	43
PECUNIARY INTERESTS TO BE DISCLOSED IN RETURNS	43
Real property	43
Gifts	43
Contributions to travel	44
Interests and positions in corporations.....	45
Interests as a property developer or a close associate of a property developer.....	45
Positions in trade unions and professional or business associations	46
Dispositions of real property	46
Sources of income	46
Debts.....	47
Discretionary disclosures.....	48
SCHEDULE 2	49
FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 4.21.....	49
‘Disclosures by councillors and designated persons’ return	49
Important information	49
SCHEDULE 3	51
FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST SUBMITTED UNDER CLAUSE 4.37	51
Important information	51



PART 1

INTRODUCTION

This Code of Conduct is made for the purposes of section 440 of the *Local Government Act 1993* (“the Act”). Section 440 of the Act requires every Joint Organisation (JO) to adopt a code of conduct that incorporates the provisions of the Model Code.

Board Members, members of the JO staff, independent conduct reviewers, members of JO committees including a conduct review committee and delegates of the JO must comply with the applicable provisions of JO’s code of conduct in carrying out their functions as JO officials. It is the personal responsibility of JO officials to comply with the standards in the Code and regularly review their personal circumstances with this in mind.

Section 440 of the LGA requires every Joint Organisation to adopt a code of conduct that incorporates the provisions of the Model Code of Conduct. A Joint Organisations 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 “JO officials” for the purposes of the Model Code of Conduct (e.g Volunteers, contractors and members of wholly advisory committees).

A 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 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 and members of staff of the Joint Organisation and any other person the Joint Organisations adopted code of conduct applies to, must comply with the applicable provisions of their Joint Organisation’s code of conduct. It is the personal responsibility of Joint Organisation 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 Board Member to comply with the standards of conduct prescribed under this Code constitutes misconduct for the purposes of the Act. The Act provides for a range of penalties that may be imposed on Board Members for misconduct, including suspension or disqualification.

Failure by a member of staff to comply with JO’s Code of Conduct may give rise to disciplinary action.



PART 2

PURPOSE OF THE CODE OF CONDUCT

This Code of Conduct sets the minimum requirements of conduct for JO officials in carrying out their functions. The Code is prescribed by regulation.

This Code of Conduct has been developed to assist JO officials to:

- understand 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 the integrity of local government.



PART 3

GENERAL CONDUCT OBLIGATIONS

General Conduct

- 3.1. You must not conduct yourself in carrying out your functions in a manner that:
 - 3.1.1. is likely to bring the JO or holders of office into disrepute.
 - 3.1.2. contravenes the Act, associated regulations, JO's relevant administrative requirements and policies
 - 3.1.3. is detrimental to the pursuit of the Charter of the JO
 - 3.1.4. is improper or unethical
 - 3.1.5. is an abuse of power or otherwise amounts to misconduct
 - 3.1.6. causes, comprises or involves intimidation, harassment or verbal abuse
 - 3.1.7. causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
 - 3.1.8. causes, comprises or involves prejudice in the provision of a service to the community. (Schedule 6A)
- 3.2. You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the Act or any other Act. (section 439)
- 3.3. You must treat others with respect at all times.

Fairness and equity

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



Harassment and discrimination

- 3.7. You must not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease.
- 3.8. For the purposes of this code, “harassment” is any form of behavior towards a person that:
 - 3.8.1. Is not wanted by the person
 - 3.8.2. Offends, humiliates or intimidates the person, and
 - 3.8.3. Creates a hostile environment.

Bullying

- 3.9. You must not engage in bullying behaviour towards others.
- 3.10. For the purposes of this code, “bullying behaviour” is any behavior in which:
 - 3.10.1. A person or a group of people repeatedly behaves unreasonably towards another person or a group of persons, and
 - 3.10.2. The behaviour creates a risk to health and safety.
- 3.11. Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
 - 3.11.1. Aggressive, threatening or intimidating conduct
 - 3.11.2. Belittling or humiliating comments
 - 3.11.3. Spreading malicious rumours
 - 3.11.4. Teasing, practical jokes or ‘initiation ceremonies’
 - 3.11.5. Exclusion from work related events
 - 3.11.6. Unreasonable work expectations, including too much or too little work, or work below or beyond a worker’s skill level
 - 3.11.7. Displaying offensive material
 - 3.11.8. Pressure to behave in an inappropriate manner.



- 3.12. Reasonable management action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this code. Examples of reasonable management action may include, but are not limited to:
- 3.12.1. Performance management processes
 - 3.12.2. Disciplinary action for misconduct
 - 3.12.3. Informing a worker about unsatisfactory work performance or inappropriate work behaviour
 - 3.12.4. Directing a worker to perform duties in keeping with their job
 - 3.12.5. Maintaining reasonable workplace goals and standards
 - 3.12.6. Legitimately exercising a regulatory function
 - 3.12.7. Legitimately implementing a Joint Organisation policy or administrative processes.

Work Health and safety

- 3.13. All Joint Organisation officials, including councillors, owe statutory duties under the *Work Health and Safety Act 2011* (WH&S Act). You must comply with your duties under the WH&S Act and your responsibilities under any policies or procedures adopted by the Joint Organisation to ensure workplace health and safety. Specifically you must:
- 3.13.1. Take responsible care of your own health and safety
 - 3.13.2. Take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons
 - 3.13.3. Comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WH&S Act and any other policies or procedures adopted by the Joint Organisation to ensure workplace health and safety
 - 3.13.4. Cooperate with any reasonable policy or procedure of the Joint Organisation relating to workplace health or safety that has been notified to Joint Organisation staff
 - 3.13.5. Report accidents, incidents, near misses, to the Executive Officer or such other staff member nominated by the general manager, and take part in any incident investigations
 - 3.13.6. So far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WH&S Act in relation to the same matter.



Land use planning, development assessment and other regulatory functions

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

Binding caucus votes

- 3.16. You must not participate in binding caucus votes in relation to matters to be considered at a Board or committee meeting.
- 3.17. For the purposes of clause 3.7, a binding caucus vote is a process whereby a group of Board Members are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before the Board or committee irrespective of the personal views of individual members of the group on the merits of the matter before the Board or committee.
- 3.18. Clause 3.7 does not prohibit Board Members from discussing a matter before the Board or committee prior to considering the matter in question at a Board or committee meeting or from voluntarily holding a shared view with other Board Members on the merits of a matter.
- 3.19. Clause 3.7 does not apply to a decision to elect the Chairperson or to nominate a person to be a member of a Board committee.

Obligations in relation to meetings

- 3.20. You must comply with rulings by the chair at Joint Organisation and committee meetings or other proceedings of the council unless a motion dissenting from the ruling passed.
- 3.21. You must not engage in bullying behaviour (as defined under this Part) towards the chair, other Joint Organisation officials or any members of the public present during Joint Organisation or committee meetings or other proceedings of the council (such as, but not limited to, workshops and briefing sessions).
- 3.22. 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.



- 3.23. 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 Joint Organisation, or of a committee of the Joint Organisation. Without limiting this clause, you must not:
- 3.23.1. Leave a meeting of the Board or a committee for the purposes of depriving the meeting of a quorum, or
 - 3.23.2. Submit a recession 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
 - 3.23.3. Deliberately seek to impede the consideration of business at a meeting.



PART 4

CONFLICT OF INTERESTS

- 4.1. A conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty.
- 4.2. You must avoid or appropriately manage any conflict of interests. The onus is on you to identify a conflict of interests and take the appropriate action to manage the conflict in favour of your public duty.
- 4.3. Any conflict of interests must be managed to uphold the probity of Board decision making. When considering whether or not you have a conflict of interests, it is always important to think about how others would view your situation.
- 4.4. Private interests can be of two types: pecuniary or non-pecuniary.

What is a pecuniary interest?

- 4.5. 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. (section 442)
- 4.6. A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter. (section 443)
- 4.7. Pecuniary interests are regulated by Chapter 14, Part 2 of the Act. The Act requires that:
 - 4.7.1. Board Members and designated persons lodge an initial and an annual written disclosure of interests that could potentially be in conflict with their public or professional duties (*section 449*)
 - 4.7.2. Board Members and members of JO committees disclose an interest and the nature of that interest at a meeting, leave the meeting and be out of sight of the meeting and not participate in discussions or voting on the matter (*section 451*)
 - 4.7.3. designated persons immediately declare, in writing, any pecuniary interest. (*section 459*)
- 4.8. Designated persons are defined at section 441 of the Act, and include, but are not limited to, the Executive Officer (EO) and other senior staff of the JO.
- 4.9. Where you are a member of staff of the JO, other than a designated person (as defined by section 441), you must disclose in writing to the EO, the nature of any pecuniary interest you have in a matter you are dealing with as soon as practicable.
- 4.10. For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:



- 4.10.1. your interest, or
 - 4.10.2. the interest of your spouse or de facto partner, your relative, or your partner or employer, or
 - 4.10.3. a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- 4.11. For the purposes of clause 4.10:
- 4.11.1. Your “relative” is any of the following:
 - 4.11.1.1. your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - 4.11.1.2. your spouse’s or de facto partner’s parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
 - 4.11.1.3. the spouse or de facto partner of a person referred to in 4.11.1 and 4.11.2.
 - 4.11.2. “de facto partner” has the same meaning as defined in section 21C of the Interpretation Act 1987.
- 4.12. You will not have a pecuniary interest in relation to a person referred to in subclauses 4.10.1 or 4.10.2:
- 4.12.1. if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
 - 4.12.2. 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
 - 4.12.3. 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

- 4.13. You do not have to disclose the following interests for the purposes of this Part:
- 4.13.1. your interest as an elector
 - 4.13.2. your interest as a ratepayer or person liable to pay a charge
 - 4.13.3. 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



- 4.13.4. 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
- 4.13.5. 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)
- 4.13.6. 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
- 4.13.7. 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
- 4.13.8. 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
- 4.13.9. 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:
 - 4.13.9.1. the performance by the council at the expense of your relative of any work or service in connection with roads or sanitation
 - 4.13.9.2. security for damage to footpaths or roads
 - 4.13.9.3. 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
- 4.13.10. an interest relating to the payment of fees to councillors (including the mayor and deputy mayor)
- 4.13.11. an interest relating to the payment of expenses and the provision of facilities to councillors (including the mayor and deputy mayor) in accordance with a policy under section 252 of the LGA
- 4.13.12. an interest relating to an election to the office of mayor arising from the fact that a fee for the following 12 months has been determined for the office of mayor
- 4.13.13. an interest of a person arising from the passing for payment of a regular account for the wages or salary of an employee who is a relative of the person



- 4.13.14. an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a councillor or a council committee member
- 4.13.15. 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.

4.14. For the purposes of clause 4.13, “relative” has the same meaning as in clause 4.11, but includes your spouse or de facto partner.

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

4.15. Designated persons include:

4.15.1. the general manager

4.15.2. other senior staff of the council for the purposes of section 332 of the LGA

4.15.3. 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

4.15.4. 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.

4.16. A designated person:

4.16.1. must prepare and submit written returns of interests in accordance with clauses 4.21, and

4.16.2. must disclose pecuniary interests in accordance with clause 4.10.

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

4.18. 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.

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



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

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

- 4.21. A member of staff of council, other than a designated person, must disclose in writing to their manager or the general manager the nature of any pecuniary interest they have in a matter they are dealing with as soon as practicable after becoming aware of the interest.
- 4.22. 4.15 The staff member's manager or the general manager must, on receiving a disclosure under clause 4.14, deal with the matter to which the disclosure relates or refer it to another person to deal with.

What disclosures must be made by council advisors

- 4.23. 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.
- 4.24. 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

- 4.25. A council committee member must disclose pecuniary interests in accordance with clause 4.28 and comply with clause 4.29.
- 4.26. 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?

- 4.27. A councillor:
- 4.27.1. must prepare and submit written returns of interests in accordance with clause 4.21, and
 - 4.27.2. 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

- 4.28. A councillor or designated person must make and lodge with the general manager a return in the form set out in schedule 2 to this code, disclosing the councillor's or designated person's interests as specified in schedule 1 to this code within 3 months after:
- 4.28.1. becoming a councillor or designated person, and
 - 4.28.2. 30 June of each year, and
 - 4.28.3. 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).
- 4.29. A person need not make and lodge a return under clause 4.21, paragraphs (a) and (b) if:
- 4.29.1. they made and lodged a return under that clause in the preceding 3 months, or
 - 4.29.2. they have ceased to be a councillor or designated person in the preceding 3 months.
- 4.30. 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.
- 4.31. The general manager must keep a register of returns required to be made and lodged with the general manager.
- 4.32. Returns required to be lodged with the general manager under clause 4.21(a) and (b) must be tabled at the first meeting of the council after the last day the return is required to be lodged.
- 4.33. Returns required to be lodged with the general manager under clause 4.21(c) must be tabled at the next council meeting after the return is lodged.
- 4.34. 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

- 4.35. 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.
- 4.36. The councillor or council committee member must not be present at, or in sight of, the meeting of the council or committee:



4.36.1. at any time during which the matter is being considered or discussed by the council or committee, or

4.36.2. at any time during which the council or committee is voting on any question in relation to the matter.

4.37. 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.

4.38. A disclosure made at a meeting of a council or council committee must be recorded in the minutes of the meeting.

4.39. A general notice may be given to the general manager in writing by a councillor or a council committee member to the effect that the councillor or council committee member, or the councillor's or council committee member's spouse, de facto partner or relative, is:

4.39.1. a member of, or in the employment of, a specified company or other body, or

4.39.2. 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.

4.40. 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.

4.41. 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.

4.42. 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.

4.43. 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:

4.43.1. the matter is a proposal relating to:

4.43.1.1. the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or

4.43.1.2. 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



- 4.43.2. 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
 - 4.43.3. the councillor made a special disclosure under clause 4.37 in relation to the interest before the commencement of the meeting.
- 4.44. A special disclosure of a pecuniary interest made for the purposes of clause 4.36(c) must:
- 4.44.1. be in the form set out in schedule 3 of this code and contain the information required by that form, and
 - 4.44.2. 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.
- 4.45. 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:
- 4.45.1. 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
 - 4.45.2. that it is in the interests of the electors for the area to do so.
- 4.46. 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.

What are non-pecuniary interests?

- 4.47. Non-pecuniary interests are private or personal interests the JO official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.
- 4.48. 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.
- 4.49. 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 nonpecuniary 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.



- 4.50. 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.
- 4.51. The political views of a Board Member do not constitute a private interest.

Managing non-pecuniary conflict of interests

- 4.52. Where you have a non-pecuniary interest that conflicts with your public duty, you must disclose the interest fully and in writing, even if the conflict is not significant. You must do this as soon as practicable.
- 4.53. If a disclosure is made at a Board or committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes. This disclosure constitutes disclosure in writing for the purposes of clause 4.12.
- 4.54. How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- 4.55. As a general rule, a non-pecuniary conflict of interest will be significant where a matter does not raise a pecuniary interest but it involves:
 - 4.55.1. a relationship between a JO official and another person that is particularly close, for example, parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse, current or former spouse or partner, de facto or other person living in the same household
 - 4.55.2. other relationships 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
 - 4.55.3. an affiliation between the JO official and an organisation, sporting body, club, corporation or association that is particularly strong.
 - 4.55.4. 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
 - 4.55.5. 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
 - 4.55.6. the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or broader class of people affected by a decision.
- 4.56. If you are a JO official, other than a member of staff of the JO, and you have disclosed that a significant non-pecuniary conflict of interests exists, you must manage it in one of two ways:



- 4.56.1. 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
- 4.56.2. 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 clause 4.28 and 4.29.
- 4.57. If you determine that a non-pecuniary conflict of interests is less than significant and does not require further action, you must provide an explanation of why you consider that the conflict does not require further action in the circumstances.
- 4.58. If you are a member of staff of the JO, the decision on which option should be taken to manage a non-pecuniary conflict of interest must be made in consultation with the EO.
- 4.59. Despite clause 4.16.2, a Board Member who has disclosed that a significant non-pecuniary conflict of interest exists may participate in a decision to delegate Board's decision-making role to the JO staff through the EO, or appoint another person or body to make the decision in accordance with the law. This applies whether or not the Board would be deprived of a quorum if one or more Board Members were to manage their conflict of interest by not voting on a matter in accordance with clause 4.16.2 above.
- 4.60. 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.

Reportable political donations

- 4.61. Board Members should note that matters before the Board involving political or campaign donors may give rise to a non-pecuniary conflict of interest.
- 4.62. Where a Board Member has received or knowingly benefitted from a reportable political donation:
 - 4.62.1. made by a major political donor in the previous four years, and
 - 4.62.2. where the major political donor has a matter before the Board,then the Board Member must declare a non-pecuniary conflict of interests, disclose the nature of the interest, and manage the conflict of interests in accordance with clause 4.16.2.
- 4.63. For the purposes of this Part:
 - 4.63.1. a "reportable political donation" is a "reportable political donation" for the purposes of section 86 of the Election Funding, Expenditure and Disclosures Act 1981,



4.63.2. a “major political donor” is a “major political donor” for the purposes of section 84 of the Election Funding, Expenditure and Disclosures Act 1981.

- 4.64. Board Members should note that political donations below \$1,000, or political donations to a registered political party or group by which a Board Member is endorsed, may still give rise to a non-pecuniary conflict of interests. Board Members should determine whether or not such conflicts are significant and take the appropriate action to manage them.
- 4.65. If a Board Member has received or knowingly benefitted from a reportable political donation of the kind referred to in clause 4.21, that Board Member is not prevented from participating in a decision to delegate Board’s decision-making role to JO staff through the EO or appointing another person or body to make the decision in accordance with the law (see clause 4.19 above).

Loss of quorum as a result of compliance with this Part

- 4.66. Where a majority of voting Board Members are precluded under this Part from consideration of a matter the Board or committee must resolve to delegate consideration of the matter in question to another person.
- 4.67. Where a majority of voting Board Members are precluded under this Part from consideration of a matter and the matter in question concerns the exercise of a function that may not be delegated under section 377 of the Act, the Board Members may apply in writing to the CEO of the Office of Local Government to be exempted from complying with a requirement under this Part relating to the management of a non-pecuniary conflict of interests.
- 4.68. The EO will only exempt a Board Member from complying with a requirement under this Part where:
- 4.68.1. compliance by the Board with a requirement under the Part in relation to a matter will result in the loss of a quorum, and
 - 4.68.2. the matter relates to the exercise of a function of the Board that may not be delegated under section 377 of the Act.
- 4.69. Where the EO exempts a Board Member from complying with a requirement under this Part, the Board Member must still disclose any interests they have in the matter the exemption applies to in accordance with the requirements of this Part.
- 4.70. A Board Member, who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interests in the matter, is permitted to participate in consideration of the matter, if:
- 4.70.1. the matter is a proposal relating to
 - 4.70.1.1. the making of a principal environmental planning instrument applying to the whole or a significant part of the JO’s area, or



- 4.70.1.2. the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant part of the JO's area, and
 - 4.70.2. the non-pecuniary conflict of interests arises only because of an interest that a person has in that person's principal place of residence, and
 - 4.70.3. the Board Member declares the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part.
- 4.71. 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 the matter and to vote on the matter if the Minister is of the opinion:
- 4.71.1. 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
 - 4.71.2. That it is in the interests of the electors for the area to do so.
- 4.72. 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

- 4.73. The 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 Board.
- 4.74. If you are a member of the JO staff considering outside employment or contract work that relates to the business of the JO or that might conflict with your JO duties, you must notify and seek the approval of the EO in writing. Where the member of staff is the EO, approval must be sought from the Board. (section 353)
- 4.75. The 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 Joint Organisation, or that might conflict with the staff member's Joint Organisation duties.
- 4.76. 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.
- 4.77. As a member of staff, you must ensure that any outside employment or business you engage in will not:
- 4.77.1. conflict with your official duties
 - 4.77.2. involve using confidential information or JO resources obtained through your work with the JO
 - 4.77.3. require you to work while on JO duty



4.77.4. discredit or disadvantage the JO.

Personal dealings with the JO

- 4.78. You may have reason to deal with the JO in your personal capacity. 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.
- 4.79. 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 5

PERSONAL BENEFIT

For the purposes of this section, a reference to a gift or benefit does not include a political donation or contribution to an election fund that is subject to the provisions of the relevant election funding legislation.

- 5.1. A reference to a gift or benefit in this Part does not include:
 - 5.1.1. A political donation for the purposes of the *Electoral Funding Act 2018*
 - 5.1.2. A gift provided to the Joint Organisation 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
 - 5.1.3. Attendance by a council official at a work-related event or function for the purposes of performing their official duties, or
 - 5.1.4. Free or subsidized meals, beverages or refreshments of token value provided to council officials in conjunction with the performance of their official duties such as, but not limited to:
 - 5.1.4.1. The discussion of the official business
 - 5.1.4.2. Work-related events such as council – sponsored or community events, training, education sessions or workshops
 - 5.1.4.3. Conferences
 - 5.1.4.4. Council functions or events
 - 5.1.4.5. Social functions organized by groups, such as council committees and community organisations.

Gifts and benefits

- 5.2. You must avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits or hospitality of any kind, is attempting to secure favourable treatment from you or from the JO.
- 5.3. You must take all reasonable steps to ensure that your immediate family members do not receive gifts or benefits that give rise to the appearance of being an attempt to secure favourable treatment. Immediate family members ordinarily include parents, spouses, children and siblings.
- 5.4. 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.



Token gifts and benefits

- 5.5. Generally speaking, token gifts and benefits include:
 - 5.5.1. free or subsidised meals, beverages or refreshments provided in conjunction with:
 - 5.5.1.1. the discussion of official business
 - 5.5.1.2. JO work related events such as training, education sessions, workshops
 - 5.5.1.3. conferences
 - 5.5.1.4. JO or council functions or events
 - 5.5.1.5. social functions organised by groups, such as JO committees and community organisations
 - 5.5.2. invitations to and attendance at local social, cultural or sporting events
 - 5.5.3. gifts of single bottles of reasonably priced alcohol to individual JO officials at end of year functions, public occasions or in recognition of work done (such as providing a lecture/training session/address)
 - 5.5.4. ties, scarves, coasters, tie pins, diaries, chocolates or flowers
 - 5.5.5. prizes of token value.

Gifts and benefits of value

- 5.6. Notwithstanding clause 5.3, gifts and benefits that have more than a token value include, but are not limited to, tickets to major sporting events (such as state or international cricket matches or matches in other national sporting codes (including the NRL, AFL, FFA, NBL)), corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.

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

- 5.7. You must not:
 - 5.7.1. seek or accept a bribe or other improper inducement
 - 5.7.2. seek gifts or benefits of any kind
 - 5.7.3. 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



- 5.7.4. accept any gift or benefit of more than token value
 - 5.7.5. accept an offer of cash or a cash-like gift, regardless of the amount.
 - 5.7.6. participate in competitions for prizes where eligibility is based in the council being in or entering into a customer – supplier relationship with the competition organizer
 - 5.7.7. personally benefit from reward points programs when purchasing on behalf of the Joint Organisation.
- 5.8. For the purposes of clause 5.5.5, a “cash-like gift” includes but is not limited to gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts.
- 5.9. 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 Executive Officer in writing. The recipient, manager or Executive Officer must ensure that, at a minimum, the following details are recorded in the Joint Organisation’s gift register:
- 5.9.1. The nature of the gift or benefit
 - 5.9.2. The estimated monetary value of the gift or benefit
 - 5.9.3. The name of the person who provided the gift or benefit, and
 - 5.9.4. The date on which the gift or benefit was received.
- 5.10. Where you receive a gift or benefit of more than token value that cannot reasonably be refused or returned, this must be disclosed promptly to your supervisor, the Chairperson or the EO. The recipient, Chairperson or EO must ensure that any gifts or benefits of more than token value that are received are recorded in a Gifts Register. The gift or benefit must be surrendered to the JO, unless the nature of the gift or benefit makes this impractical.

Improper and undue influence

- 5.11. You must not use your position to influence other JO officials in the performance of their public or professional duties to obtain a private benefit for yourself or for somebody else. A Board Member will not be in breach of this clause where they seek to influence other JO officials through the appropriate exercise of their representative functions.
- 5.12. You must not take advantage (or seek to take advantage) of your status or position with or of functions you perform for the JO in order to obtain a private benefit for yourself or for any other person or body.



PART 6

RELATIONSHIP BETWEEN BOARD OFFICIALS

Obligations of Board Members

- 6.1. Each JO is a body politic. The voting Board Members are the governing body of the JO. The governing body has the responsibility of directing and controlling the affairs of the JO in accordance with the Act and is responsible for policy determinations, for example, those relating to workforce policy.
- 6.2. Board Members must not:
 - 6.2.1. direct JO staff other than by giving appropriate direction to the EO in the performance of JO's functions by way of Board or committee resolution, or by the Chairperson exercising their power under section 226 of the Act (section 352)
 - 6.2.2. in any public or private forum, direct or influence or attempt to direct or influence, any other member of the staff of the JO or a delegate of the JO in the exercise of the functions of the member or delegate (Schedule 6A of the Act)
 - 6.2.3. contact a member of the staff of the JO on JO related business unless in accordance with the policy and procedures governing the interaction of Board Members and JO staff that have been authorised by the Board and the EO
 - 6.2.4. contact or issue instructions to any of the JO's contractors or tenderers, including JO's legal advisers, unless by the Chairperson exercising their power under section 226 of the Act. This does not apply to JO's external auditors or the Chair of JO's audit committee who may be provided with any information by individual Board Members reasonably necessary for the external auditor or audit committee to effectively perform their functions
- 6.3. Despite clause 6.2, councillors may contact the Joint Organisation's external auditor or the chair of the Joint Organisation'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

- 6.4. Under section 335 of the LGA, the role of the 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 mayor and other councillors are given timely information and advice and the administrative and professional support necessary to effectively discharge their official functions.
- 6.5. The EO is responsible for the efficient and effective operation of the JO's organisation and for ensuring the implementation of the decisions of the Board without delay.



- 6.6. Members of staff of the JO must:
 - 6.6.1. give their attention to the business of JO while on duty
 - 6.6.2. ensure that their work is carried out efficiently, economically and effectively
 - 6.6.3. carry out lawful directions given by any person having authority to give such directions
 - 6.6.4. give effect to the lawful decisions, policies, and procedures of the JO, whether or not the staff member agrees with or approves of them
 - 6.6.5. ensure that any participation in political activities outside the service of the JO does not conflict with the performance of their official duties.

Obligations during meetings

- 6.7. You must act in accordance with JO's Code of Meeting Practice during Board and committee meetings.
- 6.8. You must show respect to the Chair, other JO officials and any members of the public present during Board and committee meetings or other formal proceedings of the Board.

Inappropriate interactions

- 6.9. You must not engage in any of the following inappropriate interactions:
 - 6.9.1. Board Members and administrators approaching staff and staff organisations to discuss individual or operational staff matters other than broader workforce policy issues.
 - 6.9.2. JO staff approaching Board Members and administrators to discuss individual or operational staff matters other than broader workforce policy issues.
 - 6.9.3. JO staff refusing to give information that is available to other Board Members to a particular Board Member.
 - 6.9.4. Board Members and administrators being overbearing or threatening to JO staff.
 - 6.9.5. Board Members and administrators making personal attacks on JO staff in a public forum.
 - 6.9.6. Board Members and administrators directing or pressuring JO staff in the performance of their work, or recommendations they should make.
 - 6.9.7. JO staff providing ad hoc advice to Board Members and administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community.



- 6.9.8. Councillors and administrators who have lodged an application with the Joint Organisation, discussing the matter with council staff in staff-only areas of the Joint Organisation.
- 6.9.9. Councillors and administrators approaching members of local planning panels or discussing any application that is either before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the councillor has a right to be heard by the panel at the meeting.
- 6.9.10. Council staff meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals.
- 6.9.11. Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by the council associated with current or proposed legal proceedings unless permitted to do so by the council's general manager or, in the case of the mayor or administrator, unless they are exercising their functions under section 226 of the LGA.



PART 7

ACCESS TO INFORMATION AND JOINT ORGANISATION RESOURCES

Board Member and administrator access to information

- 7.1. The EO and public officer are responsible for ensuring that members of the public, Board Members and administrators can gain access to the documents available under the *Government Information (Public Access) Act 2009*.
- 7.2. The EO must provide Board Members and administrators with information sufficient to enable them to carry out their Board functions.
- 7.3. Members of staff of the JO must provide full and timely information to Board Members and administrators sufficient to enable them to carry out their Board functions and in accordance with JO procedures.
- 7.4. Members of staff of the JO who provide any information to a particular Board Member in the performance of their Board duties must also make it available to any other Board Member who requests it and in accordance with JO procedures.
- 7.5. Board Members and administrators who have a private (as distinct from civic) interest in a document of the JO have the same rights of access as any member of the public.
- 7.6. Despite clause 7.4, 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.

Board Members and administrators to properly examine and consider information

- 7.7. Board Members and administrators must properly examine and consider all the information provided to them relating to matters that they are dealing with to enable them to make a decision on the matter in accordance with JO's charter.

Refusal of access to documents

- 7.8. Where the EO and public officer determine to refuse access to a document sought by a Board Member or administrator they must act reasonably. In reaching this decision they must take into account whether or



not the document sought is required for the Board Member or administrator to perform their Board duties (see clause 7.2). The EO or public officer must state the reasons for the decision if access is refused.

Use of certain Joint Organisation information

- 7.9. In regard to information obtained in your capacity as a JO official, you must:
 - 7.9.1. only access JO information needed for JO business
 - 7.9.2. not use that JO information for private purposes
 - 7.9.3. 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 by virtue of your office or position with JO
 - 7.9.4. only release JO information in accordance with established JO policies and procedures and in compliance with relevant legislation.

Use and security of confidential information

- 7.10. You must maintain the integrity and security of confidential documents or information in your possession, or for which you are responsible.
- 7.11. In addition to your general obligations relating to the use of JO information, you must:
 - 7.11.1. Only access confidential information that you have been authorised to access and only do so for the purposes of the exercising your official functions
 - 7.11.2. protect confidential information
 - 7.11.3. only release confidential information if you have authority to do so
 - 7.11.4. only use confidential information for the purpose it is intended to be used
 - 7.11.5. not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person
 - 7.11.6. not use confidential information with the intention to cause harm or detriment to the JO, your council or any other person or body
 - 7.11.7. not disclose any information discussed during a confidential session of a JO meeting.



Personal information

- 7.12. When dealing with personal information you must comply with:
 - 7.12.1. the Privacy and Personal Information Protection Act 1998
 - 7.12.2. the Health Records and Information Privacy Act 2002
 - 7.12.3. the Information Protection Principles and Health Privacy Principles
 - 7.12.4. the JO's privacy management plan
 - 7.12.5. the Privacy Code of Practice for Local Government

Use of Joint Organisation resources

- 7.13. You must use JO resources ethically, effectively, efficiently and carefully in the course of your official duties, and must not use them for private purposes (except when supplied as part of a contract of employment) unless this use is lawfully authorised and proper payment is made where appropriate.
- 7.14. Union delegates and consultative committee members may have reasonable access to JO resources for the purposes of carrying out their industrial responsibilities, including but not limited to:
 - 7.14.1. the representation of members with respect to disciplinary matters
 - 7.14.2. the representation of employees with respect to grievances and disputes
 - 7.14.3. functions associated with the role of the local consultative committee.
- 7.15. You must be scrupulous in your use of JO property, including intellectual property, official services and facilities, and must not permit their misuse by any other person or body.
- 7.16. You must avoid any action or situation that could create the appearance that JO property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- 7.17. You must not use JO resources, property or facilities for the purpose of assisting your election campaign or the election campaign of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- 7.18. You must not use JO letterhead, JO crests and other information that could give the appearance it is official JO document for:
 - 7.18.1. the purpose of assisting your election campaign or the election campaign of others, or



7.18.2. for other non-official purposes.

7.19. You must not convert any property of the JO to your own use unless properly authorised.

7.20. You must not use JO'S computer resources to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature.

Internet access and use of social media

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

7.21.1. Is offensive, humiliating, threatening or intimidating to other council officials or those that deal with the council

7.21.2. Contains content about the council that is misleading or deceptive

7.21.3. Divulges confidential council information

7.21.4. Breaches the privacy of other council officials or those that deal with council

7.21.5. Contains allegations of suspected breaches of this code or information about the consideration of a matter under the Procedures, or

7.21.6. Could be perceived to be an official comment on behalf of the council where you have not been authorised to make such a comment.

Council record keeping

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

7.23. All information created, sent and received in your official capacity is a council record and must be managed in accordance with the requirements of the State Records Act 1998 and the council's approved records management policies and practices.

7.24. All information stored in either soft or hard copy on council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the council and will be treated as council records, regardless of whether the original intention was to create the information for personal purposes.

7.25. 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

- 7.26. Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), councillors' rooms, and public areas of council's buildings during normal business hours and for meetings. Councillors and administrators needing access to these facilities at other times must obtain authority from the general manager.
- 7.27. Councillors and administrators must not enter staff-only areas of council buildings without the approval of the general manager (or their delegate) or as provided for in the procedures governing the interaction of councillors and council staff.
- 7.28. 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 8

MAINTAINING THE INTEGRITY OF THIS CODE

- 8.1. You must not conduct yourself in a manner that is likely to undermine confidence in the integrity of this code or its administration.

Complaints made for an improper purpose

- 8.2. You must not make a complaint or cause a complaint to be made under this code for an improper purpose.
- 8.3. For the purposes of clause 8.2, 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:
- 8.3.1. to intimidate or harass another JO official
 - 8.3.2. to damage another JO official's reputation
 - 8.3.3. to obtain a political advantage
 - 8.3.4. to influence a JO official in the exercise of their official functions or to prevent or disrupt the exercise of those functions
 - 8.3.5. to influence the Board in the exercise of its functions or to prevent or disrupt the exercise of those functions
 - 8.3.6. to avoid disciplinary action under this code
 - 8.3.7. to take reprisal action against a person for making a complaint under this code except as may be otherwise specifically permitted under this code
 - 8.3.8. to take reprisal action against a person for exercising a function prescribed under the procedures for the administration of this code except as may be otherwise specifically permitted under this code
 - 8.3.9. to prevent or disrupt the effective administration of this code.



Detrimental action

- 8.4. 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 under this code except as may be otherwise specifically permitted under this code.
- 8.5. 8.5 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 this code except as may be otherwise specifically permitted under this code.
- 8.6. For the purposes of clauses 8.4 and 8.5 detrimental action is an action causing, comprising or involving any of the following:
 - 8.6.1. injury, damage or loss
 - 8.6.2. intimidation or harassment
 - 8.6.3. discrimination, disadvantage or adverse treatment in relation to employment
 - 8.6.4. dismissal from, or prejudice in, employment
 - 8.6.5. disciplinary proceedings.

Compliance with requirements under this code

- 8.7. You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under this code.
- 8.8. You must comply with a reasonable and lawful request made by a person exercising a function under this code.
- 8.9. You must comply with a practice ruling made by the Office of Local Government.
- 8.10. Where you are a Board Member or the EO, you must comply with any JO resolution requiring you to take action as a result of a breach of this code.

Disclosure of information about the consideration of a matter under this code

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



- 8.13. You must not make allegations about, or disclose information about, suspected breaches of this code at council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.
- 8.14. You must not disclose information about a complaint you have made alleging a breach of this code or a matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- 8.15. 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.
- 8.16. You must report breaches of this code in accordance with the reporting requirements under this code.
- 8.17. You must not make allegations of suspected breaches of this code at Board meetings or in other public forums.
- 8.18. You must not disclose information about the consideration of a matter under this code except for the purposes of seeking legal advice unless the disclosure is otherwise permitted under this code.

Complaints alleging a breach of this part

- 8.19. Complaints alleging a breach of this Part (Part 8) by a Board Member, the EO or an administrator are to be made to the Office of Local Government.
- 8.20. Complaints alleging a breach of this Part by other JO officials are to be made to the EO.



PART 9

DEFINITIONS

In the Model Code of Conduct the following definitions apply:

the Act	the <i>Local Government Act 1993</i>
act of disorder	see the definition in clause 256 of the Local Government (General) Regulation 2005
administrator	an administrator of a council or JO appointed under the Act other than an administrator appointed under section 66
Chief Executive	Chief Executive of the Office of Local Government
committee	a JO committee
conflict of interests	a conflict of interests exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your public duty
JO committee	a committee established by resolution of JO
“JO committee member”	a person other than a Board Member or member of staff of a JO who is a member of a JO committee
JO official	includes Board Members, members of staff of JO, administrators, JO committee members, conduct reviewers and delegates of JO Member Councils.
councillor	a person elected or appointed to civic office and includes a Mayor
designated person	see the definition in section 441 of the Act
election campaign	includes council, State and Federal election campaigns
personal information	information or an opinion about a person whose identity is apparent, or can be ascertained from the information or opinion
the Regulation	the Local Government (General) Regulation 2005



The term “you” used in the Code of Conduct refers to JO officials.

The phrase “this code” used in the Code of Conduct refers also to the procedures for the administration of the Code of Conduct prescribed under the *Local Government (General) Regulation 2005*.



SCHEDULE 1 – DISCLOSURES OF INTEREST AND OTHER MATTERS IN WRITTEN RETURNS SUBMITTED UNDER CLAUSE 4.21

PART 1: PRELIMINARY

Definitions

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

address means:

- 1.1. 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
- 1.2. 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
- 1.3. 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:

- 1.1. The allotment of shares in a company
- 1.2. The creation of a trust in respect of property
- 1.3. The grant or creation of a lease, mortgage, charge easement, license, power, partnership or interest in respect of property
- 1.4. 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
- 1.5. The exercise by a person of a general power of appointment over property in favour of another person
- 1.6. 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:

- 1.1. in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or
- 1.2. 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:

- 1.1. in the case of a return made under clause 4.21(a), the date on which a person became a councillor or designated person
- 1.2. in the case of a return made under clause 4.21(b), 30 June of the year in which the return is made
- 1.3. 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:

- 1.1. a person's spouse or de facto partner
- 1.2. a person's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
- 1.3. a person's spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child



1.4. the spouse or de factor partner of a person referred to in paragraphs (b) and (c).

travel includes accommodation incidental to a journey.

Matters relating to the interests that must be included in returns

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



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:
 - 5.1. the street address of each parcel of real property in which they had an interest on the return date, and
 - 5.2. 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
 - 5.3. 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:
 - 6.1. 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
 - 6.2. 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:
 - 9.1. a description of each gift received in the period since 30 June of the previous financial year, and
 - 9.2. the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
 - 10.1. 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



10.2. it was a political donation disclosed, or required to be disclosed, under Part 3 of the Electoral Funding Act 2018, or

10.3. the donor was a relative of the donee, or

10.4. 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:

12.1. 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

12.2. the dates on which the travel was undertaken, and

12.3. 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:

13.1. 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

13.2. was made by a relative of the traveller, or

13.3. 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

13.4. 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

13.5. was a political donation disclosed, or required to be disclosed, under Part 3 of the Electoral Funding Act 2018, or

13.6. 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 traveler to represent the party within Australia, or

13.7. 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:
- 15.1. 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
 - 15.2. 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
 - 15.3. the nature of the interest, or the position held, in each of the corporations, and
 - 15.4. 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:
- 16.1. 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
 - 16.2. required to apply its profits or other income in promoting its objects, and
 - 16.3. 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:
 - 21.1. 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
 - 21.2. 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
 - 21.3. 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:
 - 26.1. 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
 - 26.2. 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:
- 27.1. in relation to income from an occupation of the person:
 - 27.1.1. a description of the occupation, and
 - 27.1.2. 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
 - 27.1.3. if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
 - 27.2. in relation to income from a trust, the name and address of the settlor and the trustee, or
 - 27.3. in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
- 28.** The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
- 29.** The source of any income received by the person that they ceased to receive prior to becoming a councillor or designated person need not be disclosed.
- 30.** A fee paid to a councillor or to the mayor or deputy mayor under sections 248 or 249 of the LGA need not be disclosed.

Debts

- 31.** A person making a return under clause 4.21 of this code must disclose the name and address of each person to whom the person was liable to pay any debt:
- 31.1.a) on the return date, and
 - 31.2.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:
- 33.1. 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:



- 33.1.1. 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
- 33.1.2. the amounts to be paid exceeded, in the aggregate, \$500, or
- 33.2. the person was liable to pay the debt to a relative, or
- 33.3. 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
- 33.4. in the case of a debt arising from the supply of goods or services:
 - 33.4.1. 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
 - 33.4.2. 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
- 33.5. subject to paragraph (a), the debt was discharged prior to the person becoming a councillor or designated person.

Discretionary disclosures

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



SCHEDULE 2

FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE 4.21

‘Disclosures by councillors and designated persons’ return

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

Important information

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

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



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

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

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



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.